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Harvard College Library



FROM THE BRIGHT LEGACY

One half the income from this Legacy, which was received in 1880 under the will of

JONATHAN BROWN BRIGHT
of Waltham, Massachusetts, is to be expended for books for the College Library. The other half of the income is devoted to scholarships in Harvard University for the benefit of descendants of

HENRY BRIGHT, JR.,
who died at Watertown, Massachusetts, in 1686. In the absence of such descendants, other persons are eligible to the scholarships. The will requires that this announcement shall be made in every book added to the Library under its provisions.

LAWS
OF THE
STATE OF NEW YORK

PASSED AT THE
SESSION OF THE LEGISLATURE

HELD IN THE YEAR

1801,

BEING THE TWENTY-FOURTH SESSION.

(INCLUDING THE ACTS COMMONLY CALLED REVISED ACTS OF
THAT SESSION.)

REPUBLISHED BY THE SECRETARY OF STATE, PURSUANT TO
CHAPTER THREE HUNDRED AND FORTY-ONE OF THE LAWS
OF EIGHTEEN HUNDRED AND EIGHTY-FIVE.

VOLUME V.

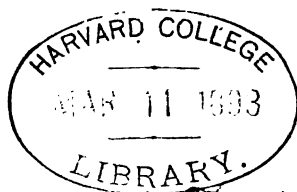


ALBANY:
WEED, PARSONS AND COMPANY, PRINTERS.

1887.

US 15218.1.50

✓ NY Doc 1.31



CHAPTER 341.

AN ACT to provide for the publication of the session laws from seventeen hundred and seventy-seven to eighteen hundred and one, inclusive.

PASSED May 27, 1885; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The Secretary of State is directed to republish, verbatim, preserving the original spelling and punctuation, the session laws of this State from seventeen hundred and seventy-seven to eighteen hundred and one, both inclusive. References showing when each law was amended or repealed, may be added.

§ 2. The republication shall be in octavo volumes of not less than six hundred or more than seven hundred and fifty pages each, with an index to each volume, and of a material equal in style and quality to the session laws of eighteen hundred and eighty-four.

§ 3. The edition shall consist of one thousand copies and shall be distributed as follows: One copy to each judicial district library; one copy to the clerk's office of each county; one copy to each justice of the supreme court, and each judge of the court of appeals; one copy to each legislative library, and each State department; two hundred copies to the trustees of the State library, for literary and scientific exchanges. The remainder shall be delivered to the trustees of the State library, and such trustees shall reserve sufficient copies for the future use of the State, and in their discretion sell the balance at a price to be fixed by them, and pay the proceeds into the treasury of the State.

§ 4. Six thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to carry this act into effect, and the same shall be paid by the Treasurer on the warrant of the Comptroller in such sums and to such persons as the Secretary of State shall approve. The work herein authorized shall not be begun unless it can be completed for the sum herein appropriated.

§ 5. The title page of each volume shall state that it was published pursuant to this act, and the same may be cited in any action or proceeding with the same force as the original edition.

§ 6. This act shall take effect immediately.

STATE OF NEW YORK,
Office of the Secretary of State, } ss.:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

FREDERICK COOK,
Secretary of State.

STATE OF NEW YORK, }
OFFICE OF THE SECRETARY OF STATE, } ss.:

I hereby certify that the Laws, contained in this volume, were republished by me pursuant to chapter three hundred and forty-one of the Laws of eighteen hundred and eighty-five.

FREDERICK COOK,
Secretary of State.

L A W S

OF THE

STATE OF NEW-YORK,

PASSED AT THE

TWENTY FOURTH SESSION OF THE LEGISLATURE.

CHAP. 1.

AN ACT for altering the place of holding the courts of common pleas and general sessions of the peace of the county of Washington for the term of February.

PASSED the 3d of February, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That it shall and may be lawful for the judges and justices of the courts of common pleas and general sessions of the peace of the county of Washington, to be held on the second Tuesday of February next, on that day to adjourn the said court, to meet again on the same day, or on the next day at the dwelling house of Daniel Cook in the town of Kingsbury in the said county, and not at any other place, any law to the contrary thereof notwithstanding; and that the remainder of the said term and all future courts to be held thereafter for the term of February in the said county shall be held at the place last aforesaid.

Washington courts,
where held

And be it further enacted, That the other terms of the said courts, that is to say, the terms of May and November, shall continue to be holden at the court house in the town of Salem in the county of Washington aforesaid.

Id.

And be it further enacted, That the act entitled "An act for altering the place of holding the courts of common pleas and general sessions of the peace of the county of Washington for the term of February" passed the tenth day of February one thousand seven hundred and ninety seven, shall be and hereby is repealed.

Act recited
repealed.

CHAP. 2.

AN ACT to revive the act entitled "An act to exonerate certain persons from paying arrears of quit rent" passed the 5th April 1798.

PASSED the 3d of February, 1801.

Act recited
revived.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the act entitled "An act to exonerate certain persons from paying arrears of quit rent" passed April 5th 1798," be and the same is hereby revived, and the time limited in and by the same act for the remission of quit rent and commutation therefor is hereby prolonged to the first day of April 1802, upon the terms and conditions prescribed in and by the said recited act and the act reviving the same, passed the 28th day of February 1800.

CHAP. 3.

AN ACT for the relief of the collectors of taxes in the city and county of New York.

PASSED the 10th of February, 1801.

Time ex-
tended for
collection
of taxes in
New York
city.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the time limited by law for the collectors of taxes in the city and county of New York to pay the amount of taxes by them to be collected for defraying the public or necessary contingent charges of the said city and county, and to settle their accounts of the same with the chamberlain or treasurer of the said city and county, shall be and hereby is (in the present year) extended to the first Monday in May next; and the said chamberlain or treasurer is hereby inhibited (in the present year) from issuing any warrant or warrants against the said collectors or any of them for the collection of the said taxes until the first Monday in June next; any thing in the "act for the assessment and collection of taxes" or in the act to explain and amend the said last mentioned act, to the contrary notwithstanding; *provided always* that nothing herein contained shall be construed to prolong the time for paying the amount of the State tax to be collected in the said city and county, and settling the accounts of the collectors of the same, any law to the contrary notwithstanding.

Monthly
payments.

And be it further enacted, That the said collectors shall severally on the first Monday in each and every month, under the penalty of five hundred dollars, pay to the said chamberlain or treasurer, the monies by them from time to time collected, and exhibit to him their respective assessment rolls when thereunto required.

CHAP. 4.

AN ACT for the relief of John Lawrence administrator of Nathaniel Lawrence late attorney general of this State.

PASSED the 10th of February, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the treasurer of this State on the warrant of the comptroller pay to John Lawrence administrator of Nathaniel Lawrence late attorney general of this State deceased out of any monies in the treasury not otherwise appropriated one hundred and eighty eight dollars and nineteen cents in full for the expences and disbursements of the said Nathaniel Lawrence in defending a suit brought against this State by Eleazer Oswald who survived Elizabeth Holt administrator of John Holt deceased.

Appropriation to John Lawrence.

CHAP. 5.

AN ACT authorizing the mayor, aldermen and commonalty of the city of Albany, to raise a sum by tax, for defraying the expence of lighting the lamps and for the support of a night watch in the said city.

PASSED the 16th of February, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful, to and for the said mayor, aldermen and commonalty, in common council convened, as soon as conveniently may be after the passing of this act, to order the raising a sum not exceeding three thousand dollars by a tax, on the estates, real and personal, of all and every the freeholders and inhabitants within the said city residing within half a mile westward of Hudson's river, to be applied to the payment of so many watchmen, as the said mayor, aldermen and commonalty have employed, or shall think necessary to employ, for guarding the said city for one year, and for defraying the expence for one year of lighting the lamps that now are or within the period aforesaid may be erected within the said city which said sum shall be rated and assessed by the assessors of the said city for the time being, and levied and collected in the manner directed in and by the act entitled "An act for the assessment and collection of taxes" passed the first day of April one thousand seven hundred and ninety nine. But that the tax shall be paid into the hands of the chamberlain of the said city, for the time being, to be applied and disposed of, from time to time, in such manner for the purposes herein before mentioned, as the said mayor, aldermen and commonalty of the said city in common council convened, shall direct and appoint.

Tax levy in Albany city.

And be it further enacted, That the chamberlain of the said city, for the time being, shall publish as soon as conveniently may be, a state of all monies, received and expended by virtue of this act, in one or more of the public news-papers, printed in the city of Albany.

Statement to be published.

CHAP. 6.

AN ACT for the relief of the mayor, aldermen and commonalty of the city of New York.

PASSED the 16th of February, 1801.

Preamble. WHEREAS the mayor, aldermen and commonalty of the city of New York have by their memorial represented, that pursuant to the authority given to them in and by the last section of the act entitled "An act to raise a sum of money for the use of this State by tax, and for the further support of government, passed the third day of April one thousand seven hundred and ninety nine, they had borrowed the sum of forty five thousand dollars, for the purposes in and by the said recited act directed, and praying legislative provision for the repayment of the same. Therefore,

Appropriation to New York city.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the comptroller shall draw his warrant on the treasurer in favor of the said corporation for the amount of the interest now due on the monies so borrowed as aforesaid at and after the rate of six per cent per annum.

Id. *And be it further enacted,* That the comptroller shall annually on the first Monday in October in every year draw his warrant on the treasurer for the sum of nine thousand dollars in favor of the said corporation until the whole of the said sum of forty five thousand dollars, with the interest accruing thereon shall be paid which sum shall be paid out of monies then in the treasury not otherwise appropriated.

CHAP. 7.

AN ACT to extend the time for the payment of the purchase money for the lots of land sold in the town of Hannibal and the village contiguous to the Salt Springs in the county of Onondaga.

PASSED the 16th of February, 1801.

Time for payment for certain lots extended.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the time for the payment of the purchase money for the lots being part of the lot number one in the town of Hannibal, directed to be laid out and sold by the surveyor general, and the lots directed to be laid out in the village contiguous to the Salt Springs in the county of Onondaga, and sold by the superintendant of the salt works or by the surveyor general of this State be and hereby is extended until the first day of May next, any thing in any former law to the contrary notwithstanding.

CHAP. 8.

AN ACT concerning the circuit courts and sittings, and the courts of oyer and terminer and gaol delivery.

PASSED the 20th of February, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the justices of the supreme court, or some or one of them, shall once in every year, and oftner if need be, hold a court in each of the counties of this State, for the trial of all issues joined in the supreme court, or in any other court, and brought into the supreme court, to be tried, and which are triable in the respective counties; which courts shall be called the circuit courts; and that each of the said courts shall be held so many days, as the justices or justice holding the same shall think necessary.

Circuit courts, where to be held.

And be it further enacted, That the justices of the supreme court shall appoint the times for holding the circuit courts, but they may nevertheless alter the same from time to time, as they shall judge most for the public convenience: *Provided* that no alteration shall take effect, until at least one term of the supreme court, shall have intervened, between the term when the alteration shall have been made, and the time when the first circuit court shall thereafter be held: *And provided further,* that no such circuit court shall be appointed as aforesaid, to be holden in any county at the same time that any other court shall, by appointment of law, be holden in the same county, the city and county, of New York excepted, and that the clerks of the supreme court shall forthwith, from time to time, cause every rule, or order of the supreme court, appointing the times for holding the circuit courts, or for altering the same as the case may be, to be published in at least two of the news papers printed in the cities of New York and Albany.

Appointment and alteration of times.

And be it further enacted, That the said circuit courts shall be held at the court houses of the counties in which they are respectively appointed to be held; and in case there be no court house in such county, then at such place as the justices of the supreme court during the term next preceding the holding of such circuit court, shall for that purpose appoint; *except nevertheless* that in the cities and counties of New York and Albany, the said circuit courts may be held at such place within the same, as the said justices at the next preceding term shall direct.

Where to be held.

And be it further enacted, That the said justices of the supreme court and every of them, as justices of the supreme court and without any other commission, shall be and hereby are authorized and required at the said circuit courts to try all such issues, and take all such inquests, by default or otherwise, as are or ought to be tried, or taken in the said circuit courts respectively and to record nonsuits and defaults before them, and upon the return of the proceedings in the said circuit courts into the supreme court, the said supreme court shall receive and record the same, and give judgment or make order thereupon according to law.

Authority to try issues in circuit courts.

And be it further enacted, That the chief justice of the supreme court, or in his absence or default, any other judge of the said court, may at his discretion by virtue of this act, and without any other commission for the purpose, in term time, or within twenty days after the end of any term, in the city hall of the city of New York, or in the city hall of the city of Albany, on such days as the court shall appoint for the purpose, try all manner of issues joined in the said court, or brought into the said

Id., in supreme court.

court to be tried, which by the ordinary course of law ought to be tried in the said court by jury, upon the like process and proceedings, and in like manner and with the like powers as trials are had in the like cases at the said circuit courts in and for the city and county of New York, or city and county of Albany, and that the clerk of the supreme court at Albany, shall be considered as clerk of the said sittings in the city of Albany and the same sittings may be continued from day to day Sunday excepted for as many days as the judge holding the same shall think necessary; *provided always* that the times of the said sittings in any term shall always be appointed in the next preceding term, and the times of the said sittings after any term, shall always be appointed in the next preceding term but one.

Where
justice
neglects to
attend at
time for
opening
court.

And be it further enacted, That if it shall happen in any county that one of the justices of the supreme court shall not come to the place, where the circuit court is appointed to be held by the hour of six in the afternoon of the day for holding the court, the sheriff shall then open and shall adjourn the circuit court, and also the court of oyer and terminer and gaol delivery which shall be to be held at the same time and place, until the hour of nine in the forenoon of the next day, and if one of the justices of the supreme court shall come to the place at any time before the hour of six in the afternoon of that day, it shall be lawful for him in respect to the circuit court and for a quorum of the commissioners in respect to the court of oyer and terminer and gaol delivery or any justice thereof to open the said courts and hold the same in like manner and to every intent, as if the said courts had respectively been duly opened on the first day, and adjourned to the next day by the said justice, or by a quorum of the commissioners; and the proceedings on the record may be in the same form as if the said justice and the said quorum of the commissioners had been present and opened the said courts on the first day. If however a justice of the supreme court shall not so come on the second day all persons bound by recognizance to appear at the court of oyer and terminer and gaol delivery, shall be adjudged to be bound by such recognizance to appear at the next court of oyer and terminer and gaol delivery which shall be held in such county, notwithstanding such opening of the said court and the adjournment of the same by the sheriff as above mentioned. *And further* that whenever such case shall happen, the justices of the supreme court shall, in the next term thereafter appoint a circuit court to be held in every such county in the ensuing vacation.

Justice not
present at
opening
may pre-
side.

And be it further enacted That any justice of the said supreme court, altho not present at the commencement of any circuit court or sittings may hold and continue the same, in the absence of the judge who was present at the commencement of the same court and do and execute every thing therein as fully in every respect as if he had been present at the commencement thereof.

Clerks of
circuit
court.

And be it further enacted, That the clerks of the several counties the city and county of New York excepted, shall be ex officio clerks of the circuit courts and courts of oyer and terminer and gaol delivery within their said counties respectively.

Id., New
York city.

And be it further enacted, That the clerkship of the circuit court and of the sittings and court of oyer and terminer and gaol delivery, within the city and county of New York, shall be united in, held and exercised by, the same person, and that such clerk shall be appointed by the person administering the government of this State, by and with the advice and consent of the council of appointment.

And be it further enacted, That the justices of the supreme court or either of them, together with the mayor, recorder and aldermen of the city of New York, or any three or more of them, of whom, either of the justices of the supreme court shall always be one, in and for the city and county of New York, and together with the mayor, recorder and aldermen of the city of Albany, and the judges and assistant justices of the court of common pleas for the county of Albany, or any three or more of them, of whom either of the justices of the supreme court shall always be one, in and for the city and county of Albany, and together with the judges and assistant justices of the respective courts of common pleas of each of the other counties of this State, or any three or more of them, of whom either of the justices of the supreme court shall always be one in and for each of the same counties respectively, shall be and hereby are, authorised and empowered by virtue of their respective offices, and this act without any other commission, at such times and places, in each of the said cities and counties respectively as the said justices of the supreme court or either of them, shall hold the circuit court therein and at such other times and places in each of the said cities and counties as any three of the justices of the supreme court, or any one of them with any two of the said persons within their respective cities and counties shall for that purpose appoint to enquire by the oath of good and lawful men of the same cities and counties respectively and by other ways and means, by whom and by which, the truth of the matter may be better known, of whatsoever treasons, felonies and other crimes and misdemeanors, and of the accessories to them in the same cities and counties respectively, by whom and in what manner soever done or committed, and of every circumstance concerning the same; and the said treasons, felonies and other crimes and misdemeanors, to hear and determine and also to deliver the gaols in the same cities and counties respectively, of the prisoners therein according to law. *And further* that the said courts shall be held and continue with or without such circuit court in each of the said cities and counties for so long time as may be necessary to dispatch the business in the same.

Court of
oyer and
terminer
and jail
delivery;
grand jury
to attend.

And be it further enacted, That the sheriff of the city and county of New-York, and the sheriffs of each of the other counties in this State, shall cause to come before the said courts of oyer and terminer and gaol delivery, to be held therein twenty four good and lawful men of the same city and counties respectively to enquire for the people of the State of New York, and the bodies of the same city and counties respectively, and to do and receive all those things which on the behalf of the people of the State of New York shall be then and there enjoined them; and also all the prisoners then being in the gaols thereof together with their attachments, indictments and all other minuments, any ways concerning those prisoners; and likewise so many good and lawful men of the same city and counties respectively, duly qualified to serve as jurors therein, as the said courts of oyer and terminer and gaol delivery or any justice thereof, shall from time to time direct, by whom the truth of the matter may be the better known and enquired into, and who have no affinity to those prisoners. And the said respective sheriffs shall cause to be publicly proclaimed, throughout their respective counties, that all those who will prosecute against those prisoners, be then and there to prosecute against them as shall be just; and shall also give notice to all justices of the peace, coroners, bailiffs and constables within their respective counties, that they be then and there in their own persons with their rolls, records, indictments and other remembrances, to do those things, which to their offices in that behalf shall appertain to be

Summon-
ing of
grand jury;
proclama-
tion by
sheriff.

done. And the said respective sheriffs and their officers, shall then and there attend in their own proper persons, to do those things which to their offices shall appertain. *And further* that the district attornies shall from time to time as soon as conveniently may be, after every circuit court shall be appointed to be held in the cities and counties of this State, within their respective districts, and at least fifteen days before the time of holding the same issue precepts under the seal of the supreme court, directed to the respective sheriffs of the same cities and counties for the purposes aforesaid, mentioning the day and place when and where the said courts are to be held, and commanding the said sheriffs respectively, to do what is hereby required of them; and the said precepts shall always be in the name of the people of the State of New York, and be tested in the name of the chief justice of the said supreme court, *provided*, that in case the office of chief justice shall be vacant, the precepts shall be tested in the name of the next senior justice of the said supreme court; and the said precepts may be tested on any day of the term preceding the vacation in which the court is to be held.

Commissions of oyer and terminer and gaol delivery.

And be it further enacted, That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, to grant and issue commissions of oyer and terminer and gaol delivery, or either of them in the manner and form heretofore used, at any time hereafter; when and as often as occasions require. But the justices of the supreme court shall always, be named in such commissions, as the justices or commissioners, with such others as the person administering the government of this State, by and with the advice and consent of the council of appointment, may think proper to execute the same; and no such commission shall at any time be executed, nor any proceedings thereupon had without the presence of one or more of the justices of the supreme court.

To what counties directed.

And be it further enacted, That it shall and may be lawful for the said courts of oyer and terminer, to direct their writs into all the cities and counties of this State, where need shall be, to arrest and take such persons, as shall be indicted before them.

New commission not to vacate proceedings.

And be it further enacted, That no manner of process or suit, before any justices of gaol delivery, oyer and terminer, or other commissioners of the people of this State, shall in any wise be discontinued by the making and publishing of any new commission, or by altering the names of the justices of gaol delivery and oyer and terminer, or other commissioners, but that the new justices of gaol delivery, oyer and terminer and other commissioners, shall and may proceed in every behalf as the old justices and commissioners might have done, if their commissions and authority had still remained.

Resentence after reprieve.

And be it further enacted, That in all cases where any person shall be found guilty of any crime punishable with death, and be reprieved before judgment, any court of gaol delivery, thereafter to be held by virtue of this act, in such city or county, where such person so found guilty shall remain, shall have power to give judgment of death against such person, as the same court before whom such person was found guilty might have done, if their authority had continued in full force.

Transfer of indictments from general sessions.

And be it further enacted, That the courts of general sessions of the peace, shall send their indictments against prisoners in gaol, to the said courts of oyer and terminer and gaol delivery, within their respective cities and counties; and the said courts shall have power to try all indictments so received and also such other indictments found in any court of general sessions of the peace, which may in the opinion of the said courts of oyer and terminer be proper to be tried in the same

courts : and to deliver the gaols of those prisoners who shall be indicted before the said general sessions of the peace, within the same cities and counties respectively.

And be it further enacted, That the minute books, which may hereafter be requisite for the clerks of the courts of oyer and terminer and gaol delivery, shall be provided for the purpose, at the expence of the counties respectively. Minute books.

And be it further enacted, That no justice of the peace shall by virtue of his office, be liable to any penalty for not attending any court of oyer and terminer or gaol delivery, unless the duties of his office require him to attend such courts. Penalty for neglect by justice of the peace.

CHAP. 9.

AN ACT to reduce the laws concerning wills into one statute.

PASSED the 20th of February, 1801.

I. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That any person having any estate of inheritance either in severalty, in coparcenary or in common in any lands, tenements or hereditaments may at his own free will and pleasure give or devise the same, or any of them, or any rent, or profit out of the same or out of any part thereof, to any person or persons (except bodies politic and corporate) by his last will and testament or by any other act by him lawfully executed. Power of alienation by will.

II. *And be it further enacted* That every such last will and testament shall be in writing, and signed by the party making the same, or by some other person in his presence, and by his express direction ; and shall be attested and subscribed in the presence of such party by three or more credible witnesses, or else such last will and testament shall be utterly void. How signed and witnessed.

III. *And be it further enacted* That no such last will and testament duly executed as aforesaid, or any part thereof shall be revocable or be altered otherwise than by some other will or codicil in writing or other writing of the party, to such last will and testament, declaring the same and signed, attested and subscribed in manner aforesaid, or by burning, cancelling, tearing or obliterating such last will and testament by the testator himself, or in his presence, and by his direction and consent. How revocable.

IV. *And be it further enacted* That all estates pur auter vie, shall be devisable by last will and testament duly executed as aforesaid ; and if no such devise thereof be made, the same or so much thereof as shall not be devised shall go to the executor or administrator of the party, who had the estate to be applied and distributed as part of the personal estate. Estates held during the life of another.

V. *And be it further enacted,* That no such last will and testament aforesaid made by a married woman, or by any infant, idiot or person of unsane memory, shall be valid in law. Who cannot make wills.

VI. *And be it further enacted,* That where any real estate shall be devised by last will and testament as aforesaid the executors to such will or any person interested in such estate may cause the said will to be brought before the court of common pleas of the county in which such real estate may be, and the said court shall cause the witnesses to such will to be examined in open court, or if it shall appear to the court, at the examination of any witness to such will that the other witness or witnesses to the said will are dead or reside out of this State, then such How wills proved.

proof shall be taken in open court of the hand writing of the testator, or of the witness or witnesses so dead or absent, or of such other circumstances as would be proper to prove the said will upon a trial at law, and the said court shall cause all such examinations and proofs to be reduced to writing; and if it shall thereupon in either case appear that such will was duly executed, and that the testator at the time of executing the same was of full age, and of sound mind and memory, and not under any restraint, then the court shall order their clerk to record the same will, together with the proof so taken in a book to be provided by the clerk for that purpose, and the record of the said will so proved and recorded shall be as good and effectual in all cases, as the original wills would be if produced and proved.

Where witnesses dead or absent.

VII. *And be it further enacted* That if all the witnesses to such will are dead, or reside out of the United States, then the said court shall in open court take such proof of the hand writing of the testator, or of either or all of the witnesses to the same will, or of such other circumstances as would be proper to prove the same will upon a trial at law and shall cause all such examinations and proofs to be reduced to writing, and to be recorded as aforesaid, and the record thereof shall be received as evidence upon any trial or controversy, concerning the same will and shall be of the same force and effect, as if taken in open court upon such trial. *Provided* it shall appear that the lands in question, have been uninterruptedly held under the said will for the space of twenty years. And the same will shall be deposited and remain with the clerk of the same court for the benefit of the parties interested therein; and he shall upon request make and deliver a true copy thereof to any person requiring the same: *Provided also*, that it shall appear upon such examination that any lands, claimed under the said will, have been held under the same for twenty years previous thereto, such will shall also be recorded as aforesaid, and such record shall be evidence in all cases respecting such lands.

Citations to heirs to appear at probate of will.

VIII. *And be it further enacted* That it shall not be lawful for the said court to proceed to prove any such will, until proof be made that due notice of such intention had been given to the heirs of the testator, or if such heirs are not to be found within this State fixed up at the last place of abode of such testator at least fifteen days before such examination, that the said court or any judge thereof may cause all such witnesses as any person interested may desire to be summoned to appear at such court and testify, and if any witness neglects or refuses to appear, the said court may cause such witness to be brought before the same court to testify touching the premises. And that every person having the custody or power of any such will, shall on request produce the same before the said court, for the purpose aforesaid, and when the same shall be proved and shall also be recorded as aforesaid the original shall be returned to the person who brought it, if such person desire it; and if any such person refuse to produce and deliver such will, the said court may commit such person to goal, there to remain until he produces and delivers the same to such court or a judge thereof.

Where real estate in several counties.

IX. *And be it further enacted* That if the real estate so devised be in several counties, then such will shall be proved in manner aforesaid in the supreme court, and recorded as aforesaid by the clerk thereof, and the supreme court shall in such cases proceed in the like manner, and have like powers in the premises.

Expense of probate.

X. *And be it further enacted*, That the expence of proving and recording the said wills shall be paid by the person applying to have the same done, and the witnesses and officers shall have the like fees for their

attendance and services on proving a will as aforesaid as for the like attendance and services in other cases.

XI. *And be it further enacted* That where any lands, tenements or hereditaments have been or shall be given or devised by any last will and testament executed as aforesaid to the executors therein named or any of them to be sold, or have been or shall be thereby ordered to be sold by such executors or any of them; and after the death of the testator part of the executors so named, refuse or neglect to take upon them the execution of the said will, then all sales of the said lands, tenements or hereditaments by the executor or executors, who take charge of the administration of the said will shall be equally valid as if the residue of the executors had joined in the sale.

Power of sale where executor renounces trust.

XII. *And be it further enacted* That if any person be a witness to the execution of any will, to whom any beneficial, devise, legacy interest or appointment affecting any real or personal estate, except charges on the real estate, for the payment of any debt, be given or made such devise, legacy, interest or appointment shall, so far only, as concerns such person or any claiming under him, be void, and such person shall be admitted as a competent witness.

Will void as far as bequests to witnesses.

XIII. *And be it further enacted* That if by any will, any real estate be charged with any debt, and any creditor whose debt is so charged be a witness to such will, he shall notwithstanding the charge be a competent witness. *Provided always* that the credit of any witness to a will in any of the cases in this act before mentioned, shall be subject to consideration and determination in like manner, as the credit of witnesses is in all other cases.

Where debt to witness made a charge on lands.

XIV. *And be it further enacted* That no nuncupative will shall be good, where the estate thereby bequeathed shall exceed the value of seventy five dollars unless the same be proved by the oaths of three witnesses at the least, who were present at the making thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present or some of them, bear witness that such was his will, or words to that effect; nor unless such nuncupative will, was made in the time of the last sickness of the deceased, and in his dwelling house, or where he had been resident for ten days or more next before the making of such will; except where such person was surprised or taken sick being from home, and died before his return to the same.

Nuncupative wills.

XV. *And be it further enacted* That after six months from the speaking of the pretended testamentary words, no testimony shall be received to prove any nuncupative will, except the said testimony, or the substance thereof was committed to writing within six days after the making of the said will; and further that no letters testamentary or probate of any nuncupative will, shall pass the seal of any court untill fourteen days at the least after the decease of the testator shall be fully expired, nor shall any nuncupative will be at any time received to be proved unless process hath first issued to call in the widow or next of kin to the deceased to the end they may contest the same if they please.

When to be reduced to writing.

XVI. *And be it further enacted*, That every person, may by will in writing give or bequeath his personal estate in the same manner as if this act had not been passed; and no will in writing concerning any personal estate shall be repealed, or any part thereof revoked or altered by any words or will, by word of mouth only, unless the same be in the life time of the testator, committed to writing, and after the writing thereof, read unto the testator, and allowed and approved of by him, and proved so to be done by there witnesses at the least.

Wills of personal estate.

Widows,
soldiers
and mar-
iners. ,

XVII. *And be it further enacted*, That widows may bequeath the crop in the ground of their lands holden in dower; and that any soldier being in actual military service, and any mariner being at sea, may dispose of his personal estate in the same manner as if this act had not been passed.

Where
guardian-
ship of
child deter-
mined by
will.

XVIII. *And be it further enacted* That when any person hath any child under the age of twenty one years, and not married at the time of his death, it shall and may be lawful to and for the father of such child whether born at the time of the decease of the father, or at the time in ventre samere, or whether such father be within the age of twenty one years, or of full age by his deed executed in his life time, or by his last will and testament in writing, signed by such father, or by some other person in his presence and by his express direction, and attested and subscribed in the presence of such father by three or more credible witnesses, in such manner and form, and from time to time, as he shall respectively think fit, to dispose of the custody and tuition of such child, for and during such time as he or she shall respectively remain under the age of twenty one years or any less time, to any person or persons in possession or remainder; and that such disposition of the custody of such child, shall be good and effectual against every person claiming the custody or tuition of such child, as guardian in socage or otherwise, and that such person or persons, to whom the custody of such child be so disposed or devised as aforesaid, may maintain an action of ravishment of ward or trespass against any person who shall wrongfully take away, or detain such child for the recovery of the same; and shall and may recover damages in the said action for the use and benefit of such child.

Power of
guardian
named in
will.

XIX. *And be it further enacted*, That any person to whom the custody of any child is so disposed or devised may take into his custody to the use of such child, the profits of the real estate of such child, and also the tuition of the child and the custody and management of his personal estate, until such child arrives to the age of twenty one years or any less time, according to such disposition aforesaid, and may bring such actions in relation thereunto as a guardian in socage might lawfully do.

Act applies
to codicils.

And be it further enacted That every provision in this act shall apply as well to codicils as to wills.

CHAP. 10.

AN ACT concerning the court for the trial of impeachments and the correction of errors.

PASSED the 20th of February, 1801.

Of whom
court to
consist.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the court for the trial of impeachments and the correction of errors shall consist of the president of the senate, the senators, chancellor, and judges of the supreme court, or the major part of them, who shall and may hold such court at any time during the sitting of the legislature, on such days and at such places as they shall from time to time appoint.

Seal of the
court.

And be it further enacted That the seal already provided for that purpose shall be the seal of the said court, and the description thereof deposited and recorded in the office of the secretary of this State shall there remain as a public record thereof.

And be it further enacted, That the person administering the government of this State, by and with the advice and consent of the council of appointment, shall as often as may be necessary, appoint a fit person to be the clerk of the said court, who shall hold his office during the pleasure of the said council; and all writs and process issuing out of the said court shall run in the name of the people of this State, and be tested in the name of the president of the senate, and signed by the said clerk. Clerk of the court.

And be it further enacted, That all impeachments shall be delivered to the president of the senate, who shall thereupon immediately cause the said court to be summoned; and the said court shall forthwith cause the person so impeached to appear or be brought before them, to answer the charge exhibited against him; and upon the appearance of such person, he shall be entitled to have a copy of the said impeachment, and a reasonable time to plead or answer the same. And when issue shall be joined upon such impeachment, the court shall appoint a time and place for the trial thereof; and at the time and place so appointed, and before they proceed upon the trial, the president of the senate shall administer to each of the members of the said court then present, and the clerk of the said court shall at the same time, also administer to the president an oath or affirmation, as the case may require, truly and impartially, to try, and determine the charge in question according to evidence; and the said court shall then proceed to hear try and determine the same; and may from time to time, if necessary, adjourn the said trial to any other time or place, and no member of the said court, shall sit or give his vote upon such trial, until he shall have taken the oath or affirmation aforesaid before the president of the senate. *Provided always* that no judgment or sentence of conviction shall be given against any person upon any impeachment, unless two third parts of the members of the said court then present, shall assent to such judgment or sentence. And if two third parts of the members then present shall not assent to a judgment or sentence of conviction, then the person so impeached, shall be considered as acquitted from such impeachment; and no judgment or sentence of conviction upon any such impeachment, shall extend further than to removal from office and disqualification to hold or enjoy any place of honor trust or profit under this State; but the party so convicted or acquitted, shall nevertheless be subject to indictment, trial, judgment and punishment according to the laws of the land. Trial of impeachments.

And be it further enacted, That the power of impeaching all officers of the State, for mal and corrupt conduct in their respective offices, be vested in the representatives of the people in assembly; but that it shall always be necessary that two third parts of the members present shall consent to and agree in such impeachment. Power of impeachment.

And be it further enacted, That when any officer shall be so impeached, he shall be and hereby is suspended from exercising his office until his acquittal and if the president of the senate should at any time be so impeached, notice thereof shall be immediately given by the assembly to the senate that another president may be appointed. Suspension from office.

And be it further enacted, That all errors happening in the court of chancery the supreme court or court of probates, shall be redressed and corrected by the said court for the trial of impeachments and the correction of errors; and that it shall and may be lawful, as well for the attorney general in behalf of the people of this State as for any party, against whom any judgment hath been, or may hereafter be given in the same supreme court, or the representatives of such party, who may be thereby aggrieved, to sue forth, out of the court of chancery, a writ of Proceedings on writs of error.

error to be directed to the judges of the supreme court, commanding them to cause the record of such judgment, and all things concerning the same, to be brought before the president of the senate; and the senators and chancellor; which writ of error if issued during the sitting of the legislature, shall be made returnable at the place where the senate shall then sit, without delay; but if issued, during the recess of the legislature, shall be made returnable at the next meeting of the senate where-soever the same shall be; and the party prosecuting such writ of error, shall without delay, cause a transcript of the said record to be made, and the said judges, to whom such writ of error may be directed, or any one of them, shall within fifteen days, after notice of the said writ of error, if the same be returnable without delay, or if otherwise, at the day of the return thereof, annex the said transcript to the said writ of error, and endorse a proper return upon the said writ, and return the same. And the said court for the trial of impeachments and the correction of errors shall have full power, and hereby are authorised and required, to examine all such errors as shall be assigned or found in such record, or in any process or proceeding concerning the same, and to call upon the judges of the supreme court, to assign the reasons of such judgment, and thereupon, to reverse or affirm the said judgment, and to give such other judgment therein as the law shall require; and shall then cause the said transcript of the record with their judgment thereon, and all things touching the same, to be remitted into the supreme court, where such further proceedings shall be thereupon had as well for execution as otherwise as may be agreeable to law and justice.

Appeals to
court of
errors.

And be it further enacted, That all persons aggrieved by any sentence, judgment, decree or order of the court of chancery or court of probates may appeal from the same, or any part thereof, to the said court for the trial of impeachments and the correction of errors, which court, if such appeal be from the court of chancery, shall require the chancellor to assign the reasons of such sentence, judgment, decree or order, and shall have full power to examine, hear and finally determine all such appeals from the said court of chancery or court of probates, and all matters concerning the same, and to reverse affirm or alter any such sentence, judgment decree or order, and to make such other order or decree thereon, as equity and justice shall require and thereupon to remit the same with their judgment, decree and order in the premises, and all things concerning the same into the court so appealed from, where such further proceedings shall be thereupon had, as well for execution as otherwise as may be agreeable to equity and justice.

Time in
which
appeals
brought.

And be it further enacted That all appeals from the said court of chancery, except those from final decrees, and all appeals from the said court of probates, shall be made within fifteen days after making the sentence, judgment, decree or order, appealed from, and all appeals from final decrees in the said court of chancery, and all writs of error upon judgments in the supreme court shall be brought within five years after making such decree or rendering such judgment, and not after.

Adjourn-
ment of
court when
no quorum
present.

And be it further enacted, That if at the return of any writ of error, or at the time of entering any such appeal in the said court for the trial of impeachments and the correction of errors, or at any other time to which the same or the proceedings thereon shall be adjourned or continued, there should not be a sufficient number of members present to proceed thereon, the said writ of error shall not be thereby abated, or the said appeal or any of the said proceedings be discontinued, but the members of the said court then present, shall adjourn or continue the same to some further day.

And be it further enacted That all questions arising upon such writs of error and appeals in the said court for the trial of impeachments and the correction of errors shall be determined by a majority of the members present, and if such members be equally divided in opinion, the president of the senate shall have a casting voice in the decision, but shall not vote in any other case. How questions determined.

CHAP. 11.

AN ACT concerning apprentices and servants.

PASSED the 20th of February, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That no person whatsoever shall cause any apprentice or journeyman, to be bound by oath, bond or otherwise, that after his or her apprenticeship or term expired, such apprentice or journeyman, shall not set up or occupy any shop, house, or cellar, and therein use his profession, trade or employment; nor by any means exact or take of any such apprentice, or any journeyman, nor of any other person setting up, occupying, or using for him or them, after his, or their apprenticeship or term expired, any money or other thing for using the same, upon pain of forfeit for every offence, one hundred dollars; the one half thereof to the people of this State, and the other half to any person who will sue for the same, to be recovered with costs of suit, by action of debt, or by information, in any court of record having cognizance thereof; and every bond or other security given contrary to this act, shall be void. Certain obligations not to be required of apprentices.

And be it further enacted, That every person bound by indenture of his or her own free will, and with the consent of his or her father, or if he be dead, of the mother or guardian, and to be expressed in such indenture, and signified by such parent or guardian sealing and signing the same indenture, and not otherwise; or by the justices, and overseers of the poor as is herein after directed, to serve as clerk, apprentice, or servant, in any profession, trade, or employment, until the age of twenty one years, or for any shorter time, altho such clerk, apprentice, or servant shall be within the age of twenty one years, at the making of such indenture, shall be bounden to serve for the term in the indenture specified, as fully as if the same clerk, apprentice, or servant was of full age at the making of the same; *provided always,* that any child of any Indian woman shall not be so bound except in the presence, and with the consent of a justice of the peace; a certificate of such consent being also signed by the justice, and filed with the clerk of the town in which such indenture shall be executed. *And provided further,* that it shall be lawful for any male infant, under the age of twenty one years, or any female infant under the age of eighteen years, and who shall have no parent living, nor any guardian, by and with the approbation of the overseers of the poor of the town, or of any two justices of the peace, or of any judge of the court of common pleas of the county where such infant shall reside, to bind himself or herself an apprentice as aforesaid, until such infant, if a male, shall arrive to the age of twenty one years, and if a female, to the age of eighteen years, which approbation shall be indorsed on the indenture, and every such indenture shall be valid and binding. Binding of apprentice with consent of father or guardian.

Who to
give con-
sent.

And be it further enacted, That when the father of any child is not in legal capacity to give the consent aforesaid, the mother of such child shall have the same power to give such consent, as if the father was dead; and whenever it shall be proved to the satisfaction of the overseers of the poor of any of the towns, or of a judge of the court of common pleas of the counties of Suffolk and Queens, that the husband of any Indian woman residing therein, has left her, with her children, it shall then be lawful for such woman to bind her children as aforesaid, in the same manner, as if her husband was dead.

Binding
out of
children
chargeable
on the
public.

And be it further enacted, That it shall be lawful for the overseers of the poor of any city or town within this State, by and with the consent of the justices of the peace of the same county, or any two of them residing in or near such town or in the cities of New York, Albany, and Hudson, by and with the consent of the mayor, recorder, and aldermen, or any two of them, or in the city of Schenectady, by and with the consent of the mayor, and aldermen, or any two of them, to bind out any child who is or shall be chargeable, or whose parents are or shall become chargeable to the city or town, wherein they respectively inhabit; or who shall beg for alms, to be apprentices, or servants, according to their degree and ability, where they shall see convenient, until such child, or children, if male, shall respectively arrive, or come to the age of twenty one years, if female, to the age of eighteen years; and that the indentures or articles of agreement for binding any such infant, shall be as effectual, to all intents and purposes as if such infant were of full age, and by indenture of covenant bound him or herself. And the counterpart of such indenture or articles, for the benefit of the person so bound, shall be deposited with the clerk of the city or town in which such binding shall take place, for safe keeping.

Bound
child to be
educated.

And be it further enacted, That in all indentures and contracts to be made by any overseers of the poor of any city or town, by and with the consent of the justices of the peace of the county, or any two of them, or by and with the consent of the mayor, recorder, and aldermen, or any two of them in any city, for binding, or putting out any child, as an apprentice, or servant, shall among the covenants in such indentures or contracts to be made, and agreed upon between the parties, always be inserted as a clause to the following effect, that every master or mistress, to whom such child shall be bound as aforesaid, shall cause such child to be taught and instructed to read and write; and shall also give unto such child, a new bible at the expiration of his or her term of service. *And further,* that the overseers of the poor of each respective city and town, shall be the guardians of every such child so put, and bound out as aforesaid; to take care that the terms of the indentures or contract, and the agreements therein contained be fulfilled, and that such child be not ill used; and the said overseers of the poor are hereby directed to enquire into the same, and to redress any grievance in such manner as is prescribed by law.

Refusal of
apprentice
or servant
to serve.

And be it further enacted, That if any person, who shall be bound as aforesaid, shall refuse to serve as an apprentice or servant, according to the terms of the indenture made as aforesaid, then upon complaint of the master or mistress to whom such apprentice or servant shall be so bound to any justice of the peace of the county, wherein the said refusal shall be made, or to the mayor, or recorder, or any one of the aldermen of any city, if any such refusal shall be in such city, they and each of them shall have full power and authority by this act, by warrant under hand and seal, or otherwise to send for the same person so refusing, and if the said person refuse to serve as an apprentice, or servant, to

commit him or her unto ward in the bridewell, or house of correction, if any there be, or if there be no bridewell or house of correction, in the gaol of the city or county wherein such refusal shall take place, there to remain until he or she be contented, and will serve as an apprentice or servant, according to the intent and meaning of this act : And to the end that the time of the continuance of the service of such apprentice or servant, may the more plainly and certainly appear, the age of every such infant, so to be bound apprentice or servant, shall be inserted in his or her indentures; and where the binding is by the overseers of the poor, by and with the consent of two justices of the peace, or mayor, recorder and aldermen, as aforesaid, the same justices of the peace, or mayor, recorder, and aldermen shall as fully as they can inform themselves of such infants age, and from such information shall insert the same in the said indentures; and the age of such infant so inserted in the said indentures, (in relation to the continuance of his or her service) shall be taken to be his or her true age, without any further proof thereof.

And be it further enacted, That every sum of money which shall be paid or agreed for, with or in relation to every clerk, or apprentice so to be bound out as aforesaid, to learn any profession, trade or employment shall be inserted in the indentures to be executed as aforesaid, and every indenture or contract for taking of any clerk or apprentice, otherwise than is by this act regulated, shall be void, as against such clerk, or apprentice only; *provided always,* that no deed or contract for binding any person as clerk, apprentice or servant as aforesaid shall be void for not being indented only.

Consideration to be expressed; void contracts.

And be it further enacted, That every contract already made or hereafter to be made by any infant, or other person coming from beyond sea executed in the presence of two witnesses, and acknowledged by the servant before any mayor, recorder, alderman, or justice of the peace, shall bind the party entering into the same, for such term, and for such services, as shall be therein specified; and that every assignment of the same executed before two credible subscribing witnesses, shall be effectual to transfer the same contract for the residue of the term therein mentioned: But that no contract shall bind any infant longer than until his or her arrival to the full age of twenty one years; excepting such as are, or shall be bound in order to raise money for the payment of their passages, who may be bound until the age of twenty four years, *provided* the term of such service shall not exceed four years in the whole.

Binding of persons from beyond sea.

And be it further enacted, That if any master or mistress shall be guilty of any misusage, refusal of necessary provisions, or clothing, cruelty, or other ill treatment, so that his or her said clerk, apprentice, or servant, shall have any just cause to complain, or the said clerk, apprentice, or servant be guilty of any misdemeanor miscarriage, or ill behaviour, or do not perform his or her duty, to his or her master or mistress, then the said master or mistress, or the said clerk, apprentice, or servant, being aggrieved, and having just cause of complaint, shall repair to any justice of the peace within the county, or to the mayor, or recorder, or any one of the aldermen of the city, where the said master or mistress dwelleth, who shall take such order, and direction between the said master or mistress, and his or her clerk, apprentice, or servant, as the equity of the case shall require: And if the said justice of the peace, or mayor, recorder, or alderman cannot compound or agree the matter between such master or mistress and his or her clerk, apprentice, or servant, then the said justice, or the said mayor, or recorder, or alderman, shall take a recognizance of the said master or mistress, in such

Misusage of apprentice or servant.

sum as he shall think proper, to appear at the next general sessions of the peace to be holden in the said city, or county, and upon his, or her appearance, and hearing of the matter before the said court of general sessions of the peace, the said court may, in their discretion by rule or order, discharge the said clerk, apprentice, or servant, of his or her clerkship, apprenticeship, or service, and order all such part of such sum, and sums of money, as shall have been paid, or agreed for, with or in relation to every such clerk, apprentice, or servant, as they shall judge proper, to be refunded to the person, who paid the same, his or her executors, or administrators; and that such order, so entered in the minutes of the said court shall be a sufficient discharge for the said clerk, apprentice, or servant, from his or her indenture; and if the default shall be found to be in the clerk, apprentice, or servant, then the said justices shall cause such punishment by fine or imprisonment, or both, as for a misdemeanor to be inflicted upon him or her, as by them shall be thought meet.

Discharge
of indenture of
apprentice-
ship for
misusage.

And be it further enacted, That it shall be lawful for any three or more justices in any county, or for the mayor, recorder, and aldermen of any city, or any three or more of them, upon any complaint or application by any apprentice or servant, upon whose binding out no sum of money was paid, touching or concerning any misusage, refusal of necessary provisions or clothing cruelty, or other ill treatment, of or toward such apprentice or servant by his or her master or mistress by precept under their hands and seals, to summon such master or mistress to appear before such justices, or such mayor, recorder, and aldermen, or any two or more of them, at a reasonable time and place to be named in such summons: And such justices, mayor, recorder, and aldermen, shall and may examine into the matter of such complaint; and upon proof thereof made upon oath to their satisfaction, (whether the master or mistress be present or not, if service of the summons be also upon oath proved,) the said justices or mayor, recorder, and aldermen may discharge such apprentice or servant, by warrant or certificate under their hands and seals; for which warrant or certificate no fees shall be paid.

Punish-
ment of
offending
servant.

And be it further enacted, That it shall be lawful for such justices, or mayor, recorder, and aldermen, or any two or more of them, upon application, or complaint made upon oath, by any master, or mistress, against any such apprentice or servant, touching or concerning any misdemeanor, miscarriage or ill behaviour in his or her service, to hear examine, and determine the same, and to punish the offender by commitment to the house of correction, (if any there be,) or to the common gaol of the county or city, there to remain at hard labour for a reasonable time, not exceeding one calendar month, or otherwise by discharging such apprentice or servant in manner and form before mentioned.

Penalty
for run-
ning away
of servant.

And be it further enacted, That if any apprentice or servant shall absent himself from the service of his master or mistress before the term of his apprenticeship or service shall be expired, every such apprentice or servant shall at any time thereafter wherever he shall be found, be compelled to serve his said master or mistress for double the time he shall so have absented himself from such service, unless he shall make satisfaction to his master or mistress for the loss he shall have sustained by such absence from his service: And so from time to time as often as any such apprentice, or servant, shall without leave of his master or mistress absent himself from his service, before the term of his contract shall be fulfilled: *Provided always* that nothing in the present section of this act, shall extend to any apprentice, whose master or

mistress shall have received, with such apprentice any sum or sums of money to learn such profession, trade or employment. *And also*, that no apprentice or servant shall be compelled to serve for any time or term, or to make any satisfaction to any master or mistress, after the expiration of three years next after the end of the term for which such apprentice or servant shall have contracted to serve.

And be it further enacted, That if any person shall think himself aggrieved by such determination, order, or warrant of such justice, or justices, mayor or recorder, and aldermen, as aforesaid (except an order of commitment,) such person may appeal to the next general sessions of the peace, to be holden in and for the city or county, where such determination or order shall be made; such person giving six days notice of his intention of bringing such appeal, and of the cause and matter thereof to such justice or justices of the peace, mayor, recorder, or aldermen, and the parties concerned and entering into a recognizance within three days after such notice, before some justice of the peace, or the mayor, or recorder, or one of the aldermen for such city or county, with sufficient surety conditioned to try such appeal at, and abide the order and judgment of and pay such costs as shall be awarded by the justices at such general sessions, which said justices at their said session, upon due proof upon oath of such notice being given, and of entering into such recognizances as aforesaid shall and are hereby directed to proceed in, and hear, and finally determine the causes and matters of all such appeals, and to give and award such costs to any of the respective parties as they in their discretion, shall judge proper and reasonable, not exceeding ten dollars; the same to be levied by distress and sale of the goods and chattels of such person against whom such determination shall be made, and that their judgments and orders therein shall be final and conclusive to all parties concerned.

Appeals from orders of justices, mayors or recorders.

Provided nevertheless, and be it further enacted, That the executor, or executors who are or shall be by the last will and testament of a father directed to bring up his child, or children to some trade, or calling, such executor, or executors are hereby empowered to bind such child or children by indenture, in like manner, as the father might by law have done, if living, any thing in this act to the contrary, in any wise notwithstanding.

Executors empowered to bind out children.

CHAP. 12.

AN ACT to amend an act entitled "An act making further provision for improving the navigation of the Hudson river between the city of Albany and the village of Waterford" passed the 14th of March 1800.

PASSED the 20th of February, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the commissioners appointed by law, to raise by lottery the sum of fifteen thousand dollars to improve the navigation of the Hudson river between the city of Albany and the village of Troy, to wit, Moses Vail, Ephraim Morgan and Albert Pauling, shall cause the further sum of five thousand dollars to be raised by the said lottery, together with the expences thereon accruing, for opening and improving the navigation between the villages of Lansingburgh and Waterford.

Additional sum to be raised by lottery.

Money to be paid to commissioners.

And be it further enacted That as soon as the said lottery shall be drawn the said managers shall pay the sum of five thousand dollars to the commissioners appointed by law for improving the navigation in the Hudson river between the villages of Lansingburgh and Waterford.

Bond of commissioners.

And be it further enacted That the said last mentioned commissioners shall give bond to the people of the State in the penal sum of five thousand dollars, conditioned for the true and faithful performance of the duties enjoined on them as commissioners under this act, which bonds shall be forthwith deposited with the comptroller of this State.

CHAP. 13.

AN ACT to prevent abuses in suing out writs of habeas corpus and certiorari.

PASSED the 24th of February, 1801.

Habeas corpus and certiorari, how writs allowed.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That no writ of habeas corpus or certiorari shall issue out of any court, to remove any prisoner out of any gaol, or to remove any suit or action out of any mayors court or court of common pleas, or any indictment, presentment, inquisition, judgment, order, record, recognizance or other proceeding out of any other court, or from before any justice or justices of the peace unless the same be allowed and signed by one of the justices of the court out of which the same shall issue; *and further* that no certiorari at the instance of any party indicted for any misdemeanor in any court of general sessions of the peace, shall issue, during any term of the supreme court to remove such indictment before the trial thereof unless the same be granted on motion made in open court and by a rule of the said supreme court; and that every certiorari directed to any court of general sessions of the peace shall be delivered in open court.

Certain actions not to be removed into supreme court by writ of certiorari.

And be it further enacted That no personal action depending in any mayors court or court of common pleas on any bond or specialty, or for any other cause where the sum mentioned in the condition of such bond or specialty with the interest thereof, or the matter or thing in demand, shall, not exceed the sum of two hundred and fifty dollars, shall before judgment be stayed or removed into the supreme court, by any such writ; *provided however* that this prohibition shall not extend to any action wherein the people of this State shall be interested or in which title to lands or tenements shall in any wise come in question, nor to actions of replevin, assault and battery, false imprisonment or slander; nor to any action by or against the mayor aldermen and commonalty of either of the cities of New York or Albany, or the mayor recorder aldermen and commonalty of the city of Hudson.

When writs to be received.

And be it further enacted That no such writ shall be received by any mayors court or court of common pleas to remove any action depending in such court unless the same shall be delivered before interlocutory or other judgment entered in such action, and in case of an issue to be tried by a jury, before one of the jury summoned to try the same shall be sworn; and if any action shall have been stayed or removed into the supreme court by any such writ, and remanded by procedendo or otherwise, no such writ shall again be received to stay or remove the same.

And be it further enacted That every person indicted for any misdemeanor in any court of general sessions of the peace, or against whom any judgment or order of such court or of any justice or justices of the peace, other than judgments in actions for debts or demands between party and party, shall have been given or made by virtue of any law of this State for the benefit of any other person, shall on prosecuting such certiorari and before the allowance thereof, enter into recognizance with two sufficient sureties to the people of this State, before one of the justices of the supreme court or before such court of general sessions of the peace, or any one of the justices thereof in the sum of one hundred and twenty five dollars, conditioned in the case of such indictment that the person indicted and prosecuting such certiorari, shall at the return thereof, appear and plead to the same indictment in the supreme court, and at his or her proper costs and charges cause the issue which shall be joined thereon, or on any plea relating thereto, to be tried at the circuit court to be held in such county next after such certiorari shall be returnable, if it be not in the county where the supreme court shall sit, and if in such county, then at the next term of the said court, or at such other time as the said supreme court shall appoint, and shall give due notice of such trial to the prosecutor or his attorney, and to the attorney general or district attorney as the case may require, and shall appear from day to day in the said supreme court and not depart from the same without being discharged by the said court and shall pay to the prosecutor the costs if any which shall be ordered by the supreme court in pursuance of this act, and conditioned in the case of any such judgment or order that such person shall at his or her proper costs and charges prosecute such certiorari to effect without any wilful delay, and perform such judgment or order as the said supreme court shall make in the premises, and pay the party for whose benefit the judgment or order so removed was made, if the same shall be confirmed such costs and charges as shall be directed by the said court; *and further* that every such recognizance shall be delivered together with the writ of certiorari to the justice justices or court, to whom the said writ shall be directed, and be certified together with such writ into the supreme court and there filed, and in case of such indictment the name of the prosecutor, if a civil officer or the party grieved shall be endorsed thereon, and if the person indicted shall be convicted of the offence charged in such indictment and the prosecutor be a civil officer, prosecuting on account of any matter relating to his office, or the party grieved, the supreme court shall give to such prosecutor and also to any party in whose favor or for whose benefit any such judgment or order shall be confirmed, reasonable costs to be taxed according to the course of the said court and to be recovered by attachment against the person so convicted or against whom such judgment or order shall be made at any time after the expiration of ten days after demand and refusal to pay the same, proof of such refusal being first made; and no such recognizance shall be discharged until such costs be paid nor in case of such judgment or order, until the same be performed.

And be it further enacted That no writ of certiorari or other process shall issue, to remove into the supreme court any proceedings had before any justice or justices of the peace, mayor recorder or aldermen or any of them, or before any court of general sessions of the peace, in pursuance of the act entitled "An act concerning apprentices and servants," until after a final determination and judgment thereon by such court of general sessions of the peace.

Recognizance to be given by person for whom writ issued.

When writs not to issue until final judgment.

Illegal writ
not to be
noticed.

And be it further enacted That if any writ of habeas corpus certiorari or other writ shall issue in any of the cases above mentioned contrary to or without the party prosecuting such writ complying with the provisions contained in this act, the justice, justices or courts to whom the same may be directed, shall and may proceed as if the same had not been issued.

CHAP. 14.

AN ACT to postpone the next circuit court for the county of Albany.

PASSED the 24th of February, 1801.

Term of
court postponed.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the next circuit court appointed to be held in and for the county of Albany on the first Tuesday in March next, shall be and hereby is postponed; and that the justices of the supreme court shall at the next April term, instead of the said circuit, appoint a sittings or circuit court to be held in and for the said county at such time as they shall deem proper during the vacation of the said April term; *provided always* that the court of oyer and terminer and gaol delivery appointed to be held on the said first Tuesday of March next shall be held in the same manner as if this act had not been passed.

CHAP. 15.

AN ACT to amend an act entitled "An act granting certain lands to Sarah McGinnis and Rachel Walmsley.

PASSED the 27th of February, 1801.

Preamble.

WHEREAS in and by the act entitled "An act granting certain lands to Sarah McGinnis and Rachel Walmsley" passed the nineteenth day of March one thousand eight hundred, the surveyor general is authorized and required to execute unto Sarah McGinnis and Rachel Walmsley, their heirs and assigns forever, a conveyance of all the right, title, interest, property, claim and demand of the people of this State of in and to all and singular lots number sixty and sixty two in Banyar and Wallace's patent on the Susquehannah river; *and whereas* it appears that the said number sixty was by mistake inserted in said act for number sixty one which was originally intended; therefore,

Grant of
lands to
persons
named.

Be it enacted, by the, People of the State of New York, represented in Senate and Assembly, That the surveyor general shall be and he is hereby authorized and required to execute unto the said Sarah McGinnis and Rachel Walmsley, their heirs and assigns for ever a conveyance of all the right title and interest of the people of this State of in and to lot number sixty one in Banyar and Wallaces patent, on the Susquehannah river, containing one hundred acres more or less; *provided nevertheless,* that the said Sarah McGinnis, and Rachel Walmsley first produce and deliver to the said surveyor general a certificate from the treasurer of this State, specifying that he has received of them the sum of twenty five cents per acre for the same.

CHAP. 16.

AN ACT granting a further sum of money for compleating the meeting house erected in New Stock-bridge.

PASSED the 27th of February, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the further sum of five hundred pound be and hereby is appropriated for compleating the meeting house erected for public worship for the use of the Indians residing in New-Stock-bridge; and the comptroller of this State is hereby authorized and directed to draw his warrant on the treasurer thereof, in favour of the commissioners appointed by the act entitled "An act providing for the Indians residing at New-Stockbridge," passed the twenty first of March, one thousand eight hundred, or their order for the aforesaid sum of five hundred dollars; and the said commissioners or any two of them, shall, within one year from the passing of this act, compleat for the use of the said Indians the aforesaid building, and shall within six months thereafter account with the comptroller for the expenditure of the same.

Appropriation for meeting-house in New Stock-bridge.

CHAP. 17.

AN ACT to erect a town in the county of Saratoga by the name of Hadley.

PASSED the 27th of February, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That from and after the first Monday in April next all that part of the county of Saratoga, beginning in the middle of a public highway in the town of Greenfield south of and adjoining the late dwelling house of George Shove Esqr. deceased, thence easterly along the middle of the said highway to a place where the same intersects a public highway between the dwelling houses of Jeremiah Eddy and Waterman Carpenter; thence due east to the east line of the said town of Greenfield; from thence easterly on a straight line to a place on the west bank of the Hudson river in the town of Northumberland called Flat Rock; thence due east to the county of Washington; thence northerly on the division line between the counties of Washington and Saratoga to the northeast corner of the said town of Greenfield; thence westerly along the north line thereof to the northwest corner thereof; thence southerly along the west line thereof, to a place due west from the place of beginning; and from thence on a straight line due east to the place of beginning shall be and hereby is erected into a separate town by the name of Hadley; and that the first town meeting in the said town of Hadley shall be held at the dwelling house of Daniel Ashley in said town; and that all the remaining part of the said town of Greenfield shall be and remain a separate town by the name of Greenfield; and that all the remaining part of the said town of Northumberland shall be and remain a separate town by the name of Northumberland, and that the next annual town meeting to be held in the said towns of Greenfield and Northumberland shall be held at the places to which they respectively stand adjourned.

Hadley, town of, erected.

Greenfield.

Northumberland.

Town officers

And be it further enacted, That all and each of the towns herein mentioned and the inhabitants thereof, and the town officers by them to be chosen shall be entitled to all the privileges and subject to the same penalties that the other towns in this State, their inhabitants and officers are by law entitled and subject to.

Division of the poor.

And be it further enacted, That as soon as may be after the second Tuesday of April next the supervisors and overseers of the poor of the said town of Greenfield, and the supervisors and overseers of the poor of the town of Hadley shall after due notice being given for that purpose by the said supervisors meet together and apportion the money and poor belonging to the said town of Greenfield previous to the division thereof agreeable to the last State tax list; and that in like manner the supervisors and overseers of the poor of the respective towns of Northumberland and Hadley, shall, on notice as aforesaid, meet together and apportion the money and poor belonging to the town of Northumberland, previous to the division thereof, agreeable to the said tax list, and that the several towns of Greenfield Northumberland and Hadley shall forever thereafter respectively support their own poor.

CHAP. 18.

AN ACT for the relief of cities and towns from the maintenance of bastard children.

PASSED the 6th of March, 1801.

Bastard children, orders to be made by justices.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That any two justices of the peace of any city or county, one whereof residing in or near the town within which any bastard, or child begotten and born out of lawful matrimony shall be born, upon examination of the matter, shall in their discretion make order for the better relief of every such city or town, and shall likewise, by like discretion make order for the keeping of every such bastard child, by charging such mother or reputed father with the payment of money weekly, or other sustentation for the support of such child, as they shall think meet; and if after the same order by them subscribed under their hands, the mother or reputed father upon notice thereof, shall not for his or her part observe and perform the said order, then every such party so making default, shall be committed to the house of correction, or (for want thereof) to the common gaol of such city or county, there to remain without bail, except he or she shall put in sufficient surety to perform the said order or personally to appear at the next general sessions of the peace, to be holden in and for the city or county where such order shall be taken; and also to abide such order of the said justices of the peace, or the major part of them, in their said sessions shall make in that behalf (if they then and there shall make any) and that if at the said sessions the said justices shall make no other order, then to abide and perform the order before made.

Proceedings to determine putative father.

And be it further enacted, That if any woman shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any city or town, or shall declare herself to be with child, and that such child is likely to be born a bastard, and to be chargeable as aforesaid, and shall, in either case, in an examination to be taken in writing, upon oath, before any justice of the peace of any city, or of any

county wherein such town shall be, charge any person with having gotten her with child, it shall be lawful for such justice upon application made to him, by the overseers of the poor of such city or town, or persons acting as such, or by any one of them, to issue his warrant, for the apprehending such person so charged as aforesaid, and for bringing him before such justice or before any other justice of the peace of such city or county; and the justice before whom such person shall be brought, is hereby authorised and required to commit such person to the house of correction, or common gaol of such city or county, unless he shall give security to indemnify such city or town, or shall enter into a recognizance with sufficient surety, with condition to appear at the next general sessions of the peace to be holden for such city or county, and to abide or perform such order as shall be made in pursuance of this act.

And be it further enacted, That if the woman so charging any person, shall die, or be married before she shall be delivered, or if she shall miscarry of such child, or shall appear not to have been with child at the time of her examination, then such person shall, at the next general sessions of the peace to be holden for such city or county, be discharged from his recognizance, or immediately released out of custody, by warrant under the hand and seal, of any one justice of the peace of such city or county.

What to
variate pro-
ceedings.

And be it further enacted, That if any woman shall be delivered of a bastard child, which shall be chargeable, or likely to become chargeable to any city or town, or shall declare herself to be with child, and that such child is likely to be born a bastard, and to become chargeable to any city or town and shall on examination to be taken in writing, upon oath, before any one justice of the peace, of any city or of any county, wherein such town is, charge any person with having gotten her with child, in any county or city, within this State and that such person, shall reside or be in any other city or county, it shall be lawful for such justice, upon application made to him, by the overseers of the poor of such city or town, or persons acting as such, or by any one of them, to issue his warrant for the apprehending such person, so charged as aforesaid, and for bringing him before such justice, or before any other justice of the peace, of such city or county, and it shall be the duty of the constable, or other proper officer, to whom such warrant shall be directed, to carry the same to some one justice of the peace, of such city or county, wherein such person resides or is said to reside, or can be found; and such justice is hereby required, upon proof being made upon oath, of the hand writing of the justice, granting such warrant, to endorse his name on such warrant, which shall be a sufficient authority to the person bringing such warrant, and to all other persons, to whom such warrant was originally directed to execute such warrant in such other city or county, where such warrant was endorsed, and to apprehend and take such person, so charged as aforesaid, before the justice who endorsed such warrant, or some other justice of the peace of such city or county where such warrant was endorsed; and in case such person, so apprehended and charged as aforesaid, shall be willing and ready to give security to indemnify such city or town, where such bastard child is chargeable, or likely to become chargeable, or enter into recognizance for his appearance, at the next general sessions of the peace, to be held in and for the city or county, wherein such town lies, such justice of such other county or city, before whom such person shall be brought shall take such security, or such recognizance as aforesaid, in the same manner as any justice of the peace, of the proper city or county, might have done; and the justice

Examina-
tion before
justice.

so taking such security or recognizance shall deliver the same together with all other proceedings, had or done by him in the premises, to the constable or other person, so bringing such person before him, who are hereby required to receive the same, and to deliver over such recognizance and other proceedings to the justice or justices, who originally granted such warrant, or to some other justice of the peace of such county or city, where such warrant was granted; and such justice or justices, are hereby required to proceed as if the said recognizance and other proceedings were had or taken by themselves, and such recognizance, and other proceedings shall be as effectual in law as if the same had been entered into, taken and acknowledged before a justice of the peace, for the proper city or county where the said bastard child is chargeable, or likely to become chargeable, and the same proceedings shall be had thereon; and in case such constable or other person to whom such recognizance and other proceedings shall be so delivered, shall refuse or neglect to deliver over the same, as herein before directed, such constable or other person, shall forfeit the sum of one hundred and twenty five dollars to be recovered against him by action of debt or by information, in any court of record, by any person who will sue for the same; and if such person, so apprehended as aforesaid, shall not give such security or enter into such recognizance, to the satisfaction of the justice, before whom such person shall be so brought, in such other county or city, then the constable or other person, shall take such person so apprehended before the justice who issued such warrant originally, or before one of the justices of the peace of the city or county where such warrant was issued; and the said justice or justices, shall proceed against such person, so charged and so brought before him or them, as they might or ought to have done, if the said person resided in the county or city where such warrant was issued. *And further*, that no action of trespass, information, indictment, or other action, shall be brought, or prosecuted, by any person whatsoever, against the justice who shall endorse such warrant, for or by reason of his endorsing the same, but such person shall be at liberty to bring or prosecute his action, against the justice who granted such warrant, in the same manner as he might have done, if this act had not been passed.

Forfeiture
of recog-
nizances.

And be it further enacted, That if any recognizance already taken, or hereafter to be taken in any case concerning bastardy shall become forfeited, such recognizance shall not be estreated and sent into the court of exchequer, but the court of sessions of the peace, to which such recognizance may be returned, shall, direct the clerk of the city or county, to prosecute a suit upon the said recognizance in the court of common pleas, of the city or county where the person or persons, who entered into such recognizance can be found; and the money, when recovered, shall, after deducting the charges of such recovery be paid by such clerk to the overseers of the poor, of the city or town for the indemnification whereof such recognizance was taken, to be applied to the relief of the poor thereof; and it shall be lawful for the court of sessions, into which such recognizance is or shall be returned, at any time after the forfeiture thereof, to order the clerk of the city or county, to compound for the penalty thereof, in such manner and upon such terms as the said court shall judge proper.

Discharge
of prison-
ers when
no order
entered.

And be it further enacted, That upon application made by any person who shall be committed to any house of correction or gaol by virtue of this act, or by any person in his behalf, to any one justice of such city, or of such county, residing in or near such town, such justice is hereby authorized and required to summon the overseers of the poor of such

city or town, to appear before him at a time and place to be mentioned in such summons, to shew cause why such person should not be discharged and if no order shall appear to have been made in pursuance of this act, within eight weeks after such woman shall have been delivered, such justice shall discharge him from his imprisonment.

And be it further enacted, That it shall not be lawful for any justice of the peace, to send for any woman whatsoever, in order to her being examined concerning her pregnancy, or supposed pregnancy, until one month after she shall be delivered, or to compel any woman, before she shall be delivered, to answer to any question relating to her pregnancy.

Woman not to be examined until one month after delivery.

And be it further enacted, That it shall be lawful for the overseers of the poor of any city or town where any bastard child shall be born, to apply to any two justices of the peace of the city or county where the estate real or personal, or any part thereof, of any putative father or lewd mother of such child who shall have run away out of such city or town, shall be, and by warrant under the hands and seals of the said two justices who are hereby authorised and required to issue the same) to seize and take the goods and chattles, and to let out and receive the annual rents and profits of the lands and tenements of such putative father, or lewd mother, so absconding as aforesaid, towards the bringing up and providing for such bastard child and so soon as the said seizure shall be allowed of, and confirmed by the justices in their general sessions of the peace, it shall be lawful for the overseers of the poor of such city or town or any two of them, from time to time, and as often as the case may require, to sell so much of the said goods and chattels, at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said sessions, and to apply the money arising therefrom towards the bringing up and providing for such bastard child. *And further,* that the said overseers of the poor shall be accountable to the justices of the peace, in their said general sessions, for all such monies as shall arise from every such sale, or be received by them for the rents and profits of such lands or tenements.

Attachment of property in another county.

And be it further enacted, That if any person shall be sued for any thing which he shall do in execution of this act, he may plead the general issue, and give the special matter in evidence. And if a verdict shall pass for the defendant, or if the plaintiff shall be nonsuited, or discontinue his suit, the defendant shall recover treble costs, and shall have the like remedy for the same as any defendant hath in other cases.

Suits for things done by virtue of this act.

CHAP. 19.

AN ACT to amend the act, entitled "An act to incorporate the stockholders of the New York Insurance Company.

PASSED the 6th of March, 1801.

WHEREAS the stockholders of the New York Insurance Company have represented to the legislature under their common seal that great inconveniences attend their present mode of transacting business by the president and a committee of four directors who are appointed in rotation, and have prayed that the same may be altered; Therefore

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the president and directors of the said company if they shall think proper may meet as soon as may be, after the passing

Preamble.
Assistants to be chosen; duties of.

of this act and on the first Monday in April in every year thereafter and choose by a majority of voices out of their own body, or from the stockholders at large two persons who shall be called assistants, who shall serve for one year, or until others are chosen in their places which said assistants or either of them with the president shall assemble daily, (Sundays excepted) if need be for the dispatch of business, and shall have power and authority on behalf of the corporation to make insurances upon vessels, freight and goods, and houses and stores, and goods in houses and stores, and furniture in houses and upon lives, and for the ransom of persons in captivity, and for lending money upon bottomry and respondentia, and to fix premiums and times of payment, and to take notes for the same and all policies shall be subscribed by the president or in his absence resignation, or inability to act, by the two assistants and countersigned by the secretary, and shall be binding and obligatory upon the said corporation in like manner and with the like force and effect, as if the same were sealed with the common seal thereof: *Provided however* that no losses arising or claimed under any policy so subscribed shall be adjusted, settled or paid but by the said president and directors or a majority of them at a legal meeting for that purpose, which shall be convened in such way as the president and directors aforesaid shall from time to time prescribe.

Eligibility
of assistants.

And be it further enacted, That no person shall be eligible as assistant unless he holds in his own right at least twenty shares in the capital stock of the said company, which he shall not transfer during his continuance in the said office without thereby forfeiting the same and further that it shall be lawful for the said president and directors to allow the said assistants such salaries as they may think proper.

Vacancy,
how filled.

And be it further enacted, That in case of the death, resignation or inability to serve of the assistants or either of them such vacancy or vacancies shall be filled for the remainder of the year by an election at a meeting of the directors to be called especially for that purpose which meeting shall be called by the president or in his absence by the other assistant or in the absence of both by the secretary and notice thereof shall be published in at least two of the papers printed in the city of New York for five days immediately previous thereto.

Act subject
to will of
directors.

And be it further enacted, That the business of the said company may be carried on in the manner prescribed by the ninth section of the act hereby amended if the president and directors for the time being shall think proper, in which case it shall be in their power to displace or supersede the assistants then in office.

CHAP. 20.

AN ACT for erecting the ten townships of land on the river St. Lawrence into a town by the name of Lisbon.

PASSED the 6th of March, 1801.

Lisbon,
town of,
erected.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the ten townships of land heretofore sold under the authority of the people of this State, situate on the south east side of the river St. Lawrence and now being partly in the counties of Montgomery, Herkimer and Oneida, and known and distinguished on a map thereof filed by the surveyor general in the secretary's office by the

names of Louisville, Stockholm, Madrid, Potsdam, Lisbon, Canton Oswegatche, De Kalb, Hague and Cambray, shall be and hereby are erected into a town by the name of Lisbon and for the convenience of the inhabitants and settlers thereon, the same is annexed to, and hereafter to be considered as included in the county of Clinton. And the freeholders and inhabitants of the said town, and the town officers by them to be elected, shall have the like powers and privileges as the freeholders, inhabitants and town officers of any other town in the said county of Clinton are or shall be entitled to and that the first town meeting of the inhabitants of the said town shall be held at the dwelling house of Alexander T. Turner, in the said town on the first Tuesday in April next.

CHAP. 21.

AN ACT to incorporate the Society of Mechanics of the city and vicinity of Albany, for purposes of education and charity.

PASSED the 6th of March, 1801.

WHEREAS Bernardus Evertson and others, mechanics and tradesmen of the city of Albany and its vicinity, associated as a society under the style of The Albany Mechanics Society, for the laudable purposes of protecting and supporting such of their brethren as by sickness or accident may stand in need of assistance, and of relieving the widows and orphans of those who may die in indigent circumstances; and also of providing the means of instruction for their children; by their petition, presented to the legislature, have prayed to be incorporated, to enable them more beneficially to carry into effect their charitable intentions; therefore,

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the said Bernardus Evertson, together with George Webster, Richard Allanson, John W. Fryer, Jared Skinner, David Mulholland, James Davis, William Fowler, Austin Warner, Daniel Steele, William Mac Harg, Thomas Barker, Silas W. Howell, Elisha Dorr, Giles W. Porter, Ira Porter, John C. Fredenryck, William Easton, James Barclay, James Linacre, John Goodrich, John Mascraft, John Todd, John Harbeck, John Randall, George Klinck, Robert Hurst, James Lloyd, John Scovill, Wilhelmus G. Ryckman, Robert Boyd, John Barber, Isaac Hutton, Nathaniel Bunnell, John Grant, Thomas Mounsey, Charles R. Webster, John W. Wendell, James Hodge, James Young, David Osborn, Jacob Van Duzen, John Guest Junior, Ezra Ames, Garrit D. Garmo, John Macauley, Jeremiah Van Rensselaer, James Hunter, Isaac Willet, Joseph Wilson, John Gates, Henry Abel, John A. Goewey, Philip Hooker, Elisha Putnam, Peter Meolhench, Walter Easton, John I. Van Alen, George Hutton, James Gibbons, Thomas Russel, Peter Furlong, Cale Russell, John Boardman; and all persons, being mechanics or tradesmen, and resident within the city of Albany or its vicinity, who shall hereby be members of the said society; shall be and hereby are ordained, constituted and declared, to be one body corporate and politic, in fact and in name by the name of The Albany Mechanics Society: And that by that name they and their successors shall and may have perpetual succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in

Society of
Mechanics,
names of
incorpor-
ators.

Powers
and priv-
ileges of
incorpora-
tion.

all manner of actions, suits, complaints, matters and causes whatsoever: And that they and their successors may have a common seal, and may change and alter the same at their pleasure; and also that they and their successors, by the name of The Albany Mechanics Society, shall be in law capable of purchasing, holding and conveying any estate, real or personal, for the public use of the said corporation: *Provided* that the lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for the purpose of erecting a house or hall thereon, in which to meet and to transact the business of the said corporation, and for the purpose of erecting a school house or place of instruction for the children of the members of the said corporation or such as shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its business or purchased at sales on judgments which shall have been obtained for such debts; *and provided also*, that the amount of the real and personal estate which the said corporation are hereby enabled to hold, shall not at any one time exceed the sum of twenty five thousand dollars.

Officers of
the cor-
poration.

And be it further enacted, That the officers of the said corporation shall be a president, a first vice president, a second vice president, a treasurer and secretary, who shall be citizens of this State, and shall be appointed as herein after provided; and that for the due management of the affairs of the said corporation, and for the making and establishing of rules and regulations for its government, a board of trustees, to consist of fifteen persons, shall be elected, by ballot, once in each year, by the members of the said corporation, at their general annual meeting, to be held on the first Tuesday of February; who, together with the president and first and second vice presidents, shall have full power to make and prescribe all such bye-laws, rules, ordinances and regulations, as to them from time to time shall appear needful and proper, touching the management and disposition of the stock, estate property funds and effects of the said corporation; and all such other matters as appertain to the business, ends and purposes for which the said corporation is by this act instituted, and for no other purposes whatsoever: *Provided*, that the powers hereby vested in the said board of trustees shall not extend to the levying or requiring from the members of the said corporation, any payments towards encreasing the funds of the said corporation, or for any other purposes, exceeding the sum of one dollar from each of the said members in any one year: *Provided also*, that such bye-laws, rules and regulations be not repugnant to the constitution and laws of the United States or of this State: That Charles R. Webster shall be the first president of the said corporation; James Hodge first vice president thereof; Philip Hooker second vice president thereof, and Isaac Hutton the treasurer thereof, who shall hold their offices respectively until the first Tuesday of February next, and until others shall be chosen in their place; and John W. Fryer shall be the secretary of the said corporation, who shall hold his office until another shall be chosen in his place by the trustees, pursuant to the provisions of this act and the bye-laws of the said corporation.

Term of
office;
mode of
election.

And be it further enacted, That the president, first and second vice presidents and treasurer, shall hold their offices for one year and until others shall be chosen in their places, and shall be elected as follows; that is to say, the board of trustees shall, on or before the second Tuesday of January in each year, by ballot, make a nomination of nine persons for the offices of president and first and second vice president, and of three persons for the office of treasurer, which nominations shall

be published for two weeks successively in one of the news papers printed in the city of Albany, and shall be certified and laid before the members of the corporation at their annual meeting, to be holden as herein before provided; and that from the said first mentioned list, so nominated and certified, the president and first and second vice president shall at the said annual meeting be elected by a majority of the members present; and in like manner from the said last mentioned list, the treasurer shall be elected: And that the secretary shall be appointed by the board of trustees, at such time and place and in such manner as shall be prescribed by the bye-laws of the said corporation and shall also hold his office for one year and until another shall be appointed in his place, and it shall be his duty to attend all meetings of the trustees and all meetings of the members of the said corporation.

And be it further enacted, That if any vacancies shall happen in the offices of president, first vice president, second vice president or treasurer by death, resignation or removal, such vacancies shall be filled for the remainder of the year in which they may happen, by a special election for that purpose, to be held and conducted in the same manner as the annual elections are holden, at such times and places as shall be prescribed by the bye-laws of the said corporation. And if any vacancy shall happen in the office of secretary, the same shall be filled by the board of trustees in such manner as shall be prescribed by the bye-laws of the said corporation.

Vacancies,
how filled.

And be it further enacted, That in case it should at any time happen that an election of trustees or other officers should not be made on any day, when pursuant to this act, it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make such election in such manner as shall have been regulated by the laws and ordinances of the said corporation.

Failure to
elect not
to dissolve
corpora-
tion.

And be it further enacted, That all elections and all meetings of the said corporation shall be made and held in a place certain, to be fixed and determined by the bye-laws of the said corporation; and that all such elections and meetings of the said corporation, so to be held as aforesaid, thirty five members thereof, and at all meetings of the board of trustees, eight members thereof, including the president, or in his absence the first vice president, or in his absence the second vice president, shall be considered as a quorum, and shall have full power to do and transact the business thereof; that the board of trustees shall hold four stated meetings in each year, one in every period of three months, and that all persons being mechanics or tradesmen and resident in the city of Albany or its vicinity, desiring to become members of the said corporation, shall be proposed to the said board, by at least two members of the corporation, at a quarterly meeting next preceding that in which the question of his admission shall be proposed: That all such questions shall be determined by ballot, and by the voice of two thirds of the members present; and all persons so admitted, on paying into the hands of the treasurer such sum of money as shall by the said bye-laws be directed, provided the same shall not exceed the sum of ten dollars, shall have their names entered in the general register, and shall be entitled to all the privileges and benefits arising therefrom.

Meetings
of corpora-
tion;
quorum;
members.

And to the end that the funds of the said corporation may never be directed to any other than the charitable and benevolent ends and purposes of its institution,

Be it further enacted, That the corporation shall, within twenty days after the passing of this act, exhibit to the chancellor of this State, a full

Account
of property

to be exhibited.

and particular account of all the estate, real and personal, then vested in the said corporation, attested by the oath of the treasurer thereof, that the same is a true and perfect account; and shall also triennially between the first and last day of May, exhibit to the chancellor for the time being, a like account, together with a particular account of all monies by the said corporation expended in the preceding three years, specifying the particular purposes to which they have been applied; and if it shall appear, that any monies except for necessary purchases or repairs of any buildings which may belong to the said corporation, applicable solely to the uses in and by this act expressly mentioned and prescribed, or for the payment of the treasurer or secretary thereof, or for other charges incidental to the management of the funds thereof, have been applied by the said corporation to any use other than for the support of indigent members of the said corporation, or of the widows or children of any person having been a member thereof, or for the establishment and support of the school in and by this act contemplated to be erected and maintained for the instruction of the children of the members of the said corporation, he shall direct the attorney general of the State ex officio to file an information against the said corporation in the supreme court of this State, and if upon the traverse the said corporation shall be found guilty and judgment shall pass thereupon, that thenceforth the said corporation shall cease and become null and void, and the estate, real and personal, which it may then possess, shall vest in the people of this State.

And be it further enacted, That this act be and is hereby declared to be a public act; and that the same be construed in all courts and places benignly and favorably for every beneficial purpose therein intended.

CHAP. 22.

AN ACT to divide the town of Providence in the county of Saratoga.

PASSED the 13th of March, 1801.

Northfield,
town of,
erected.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That from and after the first Monday of April next, all that part of the town of Providence in the county of Saratoga, beginning at a place on the west line of said town, six miles from the southwest corner thereof, thence easterly on a strait line parallel with the south line of the said town, to the east bounds thereof, thence northerly along the east line of said town of Providence to the northeast corner thereof, thence westerly along the north bounds of said town to the northwest corner thereof, thence southerly along the west bounds of said town to the place of beginning, shall be and hereby is erected into a separate town by the name of Northfield—and the first town meeting in the said town of Northfield shall be held at the dwelling house of James Goodwin in said town; and that all the remaining part of the said town of Providence shall be and remain a separate town by the name of Providence; and the next annual town meeting in the said town of Providence shall be held at the dwelling house of Samuel S. Barker in said town.

Providence

Town
officers.

And be it further enacted, That the said towns of Providence and Northfield and the officers by them to be elected shall be entitled to all

the privileges and subject to the same penalties that the other towns in this State are by law entitled and subject to.

And be it further enacted, That as soon as may be after the first Tuesday of April next, the supervisors and overseers of the poor of the said towns of Providence and Northfield, on notice being first given by the said supervisors for that purpose, shall meet together and divide the money and poor belonging to the town of Providence previous to the division thereof (agreeable to the last State tax list) and that each of the said towns shall forever thereafter respectively support their own poor. Division of the poor.

CHAP. 23.

AN ACT to divide and alter the lines of the town of Franklin in the county of Delaware.

PASSED the 13th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That all that part of the town of Franklin in the county of Delaware lying south easterly of a line beginning at the west corner of Delhi and running thence south eighty eight degrees west until it intersects the State road, thence south sixty two degrees west to the line of property (so called) be and the same is hereby annexed to the town of Walton in said county. Walton, town of, part of Franklin annexed to

And be it further enacted, That all that part of said town of Franklin, beginning at a large black oak tree marked T. C. standing on the bank of the Susquehannah river on lot, number 33 in Wallace's patent and running thence south fourteen degrees west to the State road, thence due south to the said line of Walton, thence on said Walton line to said line of property, thence up said line of property to said Susquehannah river, thence up the stream of said river to the place of beginning be and the same is hereby erected into a separate town by the name of Sidney, and the first town meeting in said town shall be held at the house of William Gordon; and all the remaining part of said town, shall be and remain a separate town by the name of Franklin, and the first town meeting in said town, shall be held at the place to which it now stands adjourned. Sidney, town of, erected Franklin.

And be it further enacted, That as soon as may be after the first Tuesday of April next the supervisors and overseers of the poor of the town aforesaid shall, by notice to be given for that purpose by the supervisors thereof meet together and apportion the poor maintained by said town of Franklin, and the poor money belonging to the same, previous to the division thereof, in an equitable manner, and the said towns respectively shall thereafter maintain their own poor. Division of the poor.

And be it further enacted, That from and after the last day of March in this present year, the freeholders and inhabitants of said towns respectively shall enjoy all the privileges and be subjected to all the penalties which the freeholders and inhabitants of other towns in this State are entitled and subjected to by law. Town officers.

CHAP. 24.

AN ACT prescribing the times places and manner of holding elections for senators to represent this State in the Senate of the congress of the United States of America.

PASSED the 20th of March, 1801.

United
States sen-
ators, how
chosen.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the senators to represent this State in the senate of the congress of the United States of America, shall be chosen in the same manner, that delegates to represent this State in the general congress of the United States of America were directed to be appointed by the constitution of this State; and whenever any senator shall be chosen as aforesaid, copies of the resolutions of the senate and assembly testifying such choice, signed by the president of the senate and speaker of the assembly, shall be thereupon delivered to the person so chosen a senator as evidence of such election.

Elections
of, when
held.

And be it further enacted, That on the first Tuesday of February next before the expiration of the time for which any senator is or shall be chosen as aforesaid, if the senate and assembly of this State be then in session, and if not, then within ten days after a quorum of both houses shall be assembled at the then next meeting of the legislature of this State, an election shall be held in manner aforesaid at the place where the senate and assembly shall be then sitting, for a senator as aforesaid, in the room of such senator so going out of office; and whenever the seat of any senator chosen to represent this State as aforesaid, shall become vacant before the expiration of the time, for which he is or shall be chosen, another senator shall be chosen in his room, in the manner aforesaid, within ten days after the legislature shall have notice of such vacancy, at the place where they shall be then sitting.

CHAP. 25.

AN ACT concerning writs of error and to prevent delays of execution.

PASSED the 20th of March, 1801.

Writs of
error, how
issued.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That writs of error in all civil cases, and in criminal cases, not capital, shall be considered as writs of right and issue of course, subject to the regulations prescribed by law; and in all capital cases writs of error shall be considered as writs of grace, and shall not issue but by order of the chancellor, made upon motion or petition, notice whereof shall be given to the attorney general or prosecutor for the people.

Bond to be
given to
stay execu-
tion in per-
sonal ac-
tion.

And be it further enacted That no execution shall be stayed by any writ of error or supersedeas thereon brought to reverse any judgment given in any personal action unless the party prosecuting such writ with two sufficient sureties, or in case of the absence of such party, unless three sufficient sureties, to be approved of by the court in which such judgment shall be given, shall before such execution be stayed,

become bound unto the party in whose favor such judgment was given, by recognizance to be acknowledged in such court in double the sum recovered by such judgment, conditioned to prosecute such writ of error to effect, and also to pay and satisfy, if such judgment shall be affirmed, the debt or damages and costs to be adjudged upon such judgment, and all costs and damages to be awarded for the delay of execution.

And be it further enacted That no execution shall be stayed by any writ of error, or supersedeas thereon brought to reverse any judgment given in any writ of dower or action of ejectment, unless the party prosecuting such writ of error, or in the absence of such party, one sufficient surety shall become bound to the party in whose favor such judgment shall be given, by recognizance in such reasonable sum as the court to which such writ of error shall be directed shall think fit, with condition, that if the party prosecuting such writ of error shall be nonsuited therein or suffer the same to be discontinued, or if such judgment be affirmed, then such party shall pay to the party in whose favor such judgment was given, all such costs and damages as shall be awarded thereupon; and in order to ascertain such damages, the court in which such execution ought to be granted upon such affirmance, discontinuance or nonsuit, shall issue a writ to enquire of the damages as well for the mesne profits as for any waste committed after such first judgment given, and upon the return thereof judgment shall be given and execution awarded for such damages together with the costs of suit. *Provided* that nothing contained in this or in the preceding section of this act shall extend to any writ of error to be brought by an executor or administrator, nor to any popular action, or action on any penal statute, or in which the people of this State shall in any way be interested, nor to any indictment presentment inquisition or information.

Actions affecting real property.

And be it further enacted That no writ of error shall issue to remove a judgment out of the supreme court, unless the party applying for such writ shall first deliver to the officer, whose duty it is to issue or seal such writ, a certificate signed by a counsellor at law in the said supreme court, setting forth that he has examined the record and proceedings in the cause intended to be removed by such writ or copies thereof, and that in his opinion there is error in substance therein; and if any officer shall issue or seal any such writ of error without such certificate, he shall forfeit to the adverse party two hundred and fifty dollars, to be recovered with costs of suit in any court of record by action of debt or by information, and shall also upon conviction thereof forfeit and lose his office.

Certificate of counsel to be obtained before writ to issue.

And be it further enacted, That the death of either party between the verdict and judgment in any action, shall not be alledged for error so as such judgment be entered within two terms after such verdict.

Death not to be alledged for error.

And be it further enacted That in all personal actions of ejectment commenced by original writ, after issue joined to be tried by jury, or after judgment had, it shall not be alledged or deemed to be error, that there are not fifteen days between the teste and return days of any jury process or any writ of execution except writs of capias ad satisfaciendum, in order to charge bail, or on which a writ of exigent is to be awarded.

CHAP. 26.

AN ACT, for the better support of the public hospital in the city of New York.

PASSED the 20th of March, 1801.

Appropriation to hospital, New York city.

Be it enacted, by the People of the State of New York, represented in Senate, and Assembly; That the treasurer of this State, shall upon the warrant of the comptroller, pay to the treasurer of the Society, of the Hospital in the city of New York, for the use of the said corporation, in quarter-yearly payments, out of any monies, in the treasury of this State, not otherwise appropriated, the annual sum, of twelve thousand, five hundred dollars for and during the term of five years, to be computed from the first day of February, one thousand, eight hundred; which sum of twelve thousand, five hundred dollars, so to be paid, shall become chargeable upon the duties on sales, at public auction, or vendue, in the said city of New York.

CHAP. 27.

AN ACT concerning the council of revision, the council of appointment, and the great and privy seal of this State.

PASSED the 20th of March, 1801.

Council of revision, relating to.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That whenever a bill shall have been received by the council appointed to revise all bills about to be passed into laws by the legislature, (and which council shall continue to be known by the name of the council of revision) and the said council shall have thereon declared that it does not appear to them improper that the said bill should become a law of this State; or if the said bill shall have been before the said council for the space of ten days, and shall not have been returned by the said council with their objections thereto, as by the constitution of this State is required, whereby the same shall have become a law of this State, a certificate thereof, as the case may be, to be subscribed by the person administering the government of this State, shall be endorsed on such law; whereupon the said person administering the government, shall with his own proper hand, deliver such law to the secretary of the State, or his sworn deputy, who shall cause the same to be deposited in the secretary's office and recorded in a book to be kept for that purpose. And that whenever, and as often as a bill returned by the said council of revision to be reconsidered, shall notwithstanding be passed into a law, the president of the senate, or the speaker of the assembly, in whichsoever the same shall upon such re-consideration last pass, shall deliver such law with his own proper hand to the secretary of the State, or his sworn deputy, to be deposited and recorded as aforesaid; and the secretary of the State or his sworn deputy shall attend at every session of the legislature for the purpose of receiving laws to be delivered to him as aforesaid.

Secretary of State to be clerk of council of appointment.

And be it further enacted That the secretary of this State, shall, ex officio, be clerk of the council of appointment, and shall exercise the said office in person or by his sworn deputy; that on all nominations and appointment to offices within this State by the council of appointment, the order or orders of the said council thereupon, shall be fairly

written and entered in the minutes of the proceedings of said council (which are hereby declared to be public records of this State) and shall be subscribed by such majority of the said council as shall agree to each respective order; whereupon the clerk of the said council shall forthwith cause commissions to be made out agreeable to such orders, and delivered to the person administering the government of this State, in order that the same may be sealed.

And be it further enacted That as often as any appointment shall be made by the council of appointment, to any office civil or military in this State, and as often as any person shall be superseded, the commission and supersedeas shall from time to time be speedily sent by the secretary of this State to the clerk of the county wherein such person so appointed or superseded, shall reside, which clerk shall forthwith at the expence of this State give notice to every person appointed to any office or superseded, of such appointment or supersedeas; and whenever the person administering the government of this State shall judge it for the public good that a speedier communication be made of any appointment or supersedeas, it shall be lawful to dispatch at the expence of this State an express for that purpose to the person so appointed or superseded, or to the clerk of the county wherein such person shall reside, with the commission or supersedeas.

Secretary
to forward
commissions
and
supersedeas

And be it further enacted That in those cases where a supersedeas, issued and sent in manner aforesaid, will not in the opinion of the person administering the government of this State give sufficient public notice thereof, the secretary of this State shall cause notice of such supersedeas to be published for two weeks successively in the newspaper printed by the printer to this State, which publication is hereby declared to be a sufficient notice thereof to all intents and purposes.

When
notice of
supersedeas
to be
published.

And be it further enacted That the descriptions in writing of the arms and of the great and privy seal of this State, deposited and recorded in the office of the secretary of this State shall remain as public records; and the arms, and great and privy seal aforesaid, of which descriptions in writing have been deposited and recorded as aforesaid, shall be and continue the arms, the great seal and the privy seal of this State, and the person administering the government of this State shall have the custody of the said seals; and that the said privy seal shall be the seal for military commissions; and that all such matters and things as have heretofore since the sixteenth day of March one thousand seven hundred and seventy eight issued under the great seal of this State, shall continue to be issued under the great seal, and shall be made out and entered of record in the office of the secretary of this State.

Arms and
seals, de-
scription of

CHAP. 28.

AN ACT concerning sheriffs, and their duty in respect to process, arrests and the keeping of prisoners.

PASSED the 20th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That no person shall hereafter be appointed sheriff of any city or county of this State, unless he be a substantial freeholder within such city or county. And that all commissions to sheriffs, shall be in this form, to wit; "THE PEOPLE of the State of New York, to all

Commissions
to
sheriffs.

Writ of
discharge.

to whom these presents shall come greeting: KNOW YE, That we have committed to our well beloved A. B. our county of W, or our city and county of N. as the case may be, with the appurtenances, to keep during the pleasure of our council of appointment. In testimony whereof we have caused these our letters to be made patent, and the great seal of our State to be hereunto affixed," and shall be tested or witnessed in the usual form; and that a writ of discharge shall be issued at the same time, and be delivered to the new sheriff, with his commission, and shall be in the form following, to wit; "THE PEOPLE of the State of New York, to all to whom these presents shall come, greeting: WHEREAS, we have committed to our well beloved A. B. our county of W, or our city and county of N, as the case may be, with the appurtenances to keep during the pleasure of our council of appointment; therefore we command C. D. late sheriff of the county aforesaid; or of the city, and county aforesaid, (as the case may be,) that by indenture thereof, in due manner to be made, he deliver to the same A. B. the county aforesaid, or the city and county aforesaid, (as the case may be), with the appurtenances, together with the rolls, writs, memorandums and all other things touching that office, which are in his custody, to keep in form aforesaid;" and such writ of discharge shall be tested in the same manner, as the said commission is tested, and be sealed with the great seal of this State, and the said commission and discharge shall be transmitted by the secretary of this State, to the clerks office of the city or county for which every such person shall be appointed sheriff; and it is hereby declared to be the duty of said clerk, to give notice of such commission without delay to the person appointed.

New York
city, bond
of sheriff.

And be it further enacted, That every person hereafter to be appointed to the office of sheriff of the city and county of New York, before he be permitted to execute the said office, shall enter into bond to the people of this State, in the penal sum of twenty thousand dollars, with two sureties being freeholders, jointly and severally in the said sum, to answer to the people of this State, and the parties, if any will complain, which bond shall be in the form, and to the effect following to wit: "KNOW ALL MEN by these Presents, That we of are held and firmly bound to the people of the State of New York, in the penal sum of twenty thousand dollars to be paid to the said people: For payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this day of in the year one thousand. WHEREAS the above bounden, hath been appointed to the office of sheriff of on the day of last past; now therefore the condition of the above obligation is such, that if the said shall well and faithfully in all things perform and execute the office of sheriff, of the said county of during his continuance in the said office, by virtue of the said appointment, without fraud, deceit or oppression, then the above obligation to be void, or else remain in full force." And that every person hereafter to be appointed to the office of sheriff of any other city or county within this State, except the counties of Delaware, Tioga, Cayuga, Onondaga, Ontario, Steuben, Essex, and Clinton before he be permitted to execute the said office, shall enter into bond in the like form and effect to the people of this State, in the penal sum of five thousand dollars, with two sureties being freeholders jointly and severally in the said sum of five thousand dollars to answer to the people of this State, and the parties if any will complain: And that every person hereafter to be appointed to the office of sheriff, of any of the said counties of Delaware, Tioga,

Other
counties.

Cayuga, Onondaga, Ontario, Steuben, Essex and Clinton, before he be permitted to execute the said office, shall enter into bond in the like form, and effect, to the people of this State, in the penal sum of ten thousand dollars with any number of sureties being freeholders, not exceeding six, jointly and severally in the said sum of ten thousand dollars, to answer to the people of this State, and the parties if any will complain. And the said bonds shall be filed in the clerk's office of the counties respectively for which such sheriffs shall be appointed : And the said clerks respectively, shall at the time of filing the said bonds, administer an oath to each of the sureties named therein, that he is a freeholder within this State, and worth the sum of five thousand dollars, or twenty thousand dollars, or such part of ten thousand dollars, as shall be proportionate to the number of sureties bound in such bond, as the case may require in the said city, or in the said counties respectively, over and above all debts whatsoever owing by him; which oath shall be endorsed on the said bonds, and subscribed by the said sureties respectively, in the presence of the said respective clerks ; but that the said clerks shall notwithstanding respectively judge of and determine the competency of such sureties.

And be it further enacted, That upon every appointment to the office of sheriff as aforesaid, in case the person appointed shall neglect to enter into bond as aforesaid, for the space of twenty days after notice shall be given to him as aforesaid of his appointment, every such person shall be deemed to have refused to accept the said office : And it shall be the duty of the clerk of the city or county, in which such neglect shall happen, forthwith after the expiration of the said twenty days, to give notice thereof to the person administering the government of this State, by letter to be put into the nearest post office.

Sheriff to
qualify
within
twenty
days.

And be it further enacted, That it shall be lawful for every sheriff who shall be appointed and commissioned and take upon himself the office, to continue in and to execute all the duties of such office, until a new sheriff shall be appointed and commissioned in his place, and shall have delivered to him, a writ of discharge, if he shall be found in the county : And if not shall have filed the same in the office of the clerk of the county. But it shall nevertheless be the duty of the person administering the government of this State, by and with the advise and consent of the council of appointment, annually to appoint sheriffs and coroners according to the Constitution of this State.

Sheriff to
act until
successor
appointed.

And be it further enacted, That the sheriff of each county in this State, shall as soon as may be, after he takes upon himself the office, by writing under his hand and seal, make some proper person under sheriff of the same county during the pleasure of such sheriff, and as often as any such under sheriff shall die or be removed from his office, or move out of the county, or become incapable of executing the office another shall be appointed in his place, in the manner aforesaid ; and every such deputation or appointment, shall be recorded in the office of the clerk of the county : And in case of the death of the sheriff of any county, the under sheriff of the same county, shall in all things execute the office of sheriff of the same county, in the name of the deceased sheriff, until another sheriff shall be appointed, and commissioned, and shall take upon himself the said office : And the defaults and misfeasances in office of such under sheriff in the mean time as well as before, shall be adjudged a breach of the condition of the bond or security given by the sheriff who appointed him ; and the executors or administrators of the deceased sheriff, shall have the like remedy, for the defaults and misfeasances in office of such under sheriff, happening during such interval, as such

Under
sheriffs.

When coron-
er to act
as sheriff.

sheriff would have been entitled to, if he had lived, and continued in the exercise of the office, until his successor was appointed and commissioned, and had taken upon himself the said office: And in case there shall be no such under sheriff of any county, at the time of the death of the sheriff of such county; or if such under sheriff shall die, or remove out of the county, or become incapable of executing the office, before another sheriff of the same county shall be appointed and commissioned and have taken upon himself the said office, then and in every such case, the coroner or coroners if there shall be more than one in such county, shall in all things execute the office of sheriff of the same county, until a sheriff thereof shall be appointed and commissioned, and shall take upon himself the said office; and in every case of the death of a sheriff, the writ of discharge shall be delivered by the new sheriff to the under sheriff of the same county, if there be any; and if not then to one of the coroners of the same county, or filed in the office of the clerk of the same county: And the new sheriff shall in all cases be considered as sheriff of the same county, from the time of such delivery, or filing the writ of discharge as aforesaid, and not before. *Provided always*, that nothing herein contained shall be construed to prevent any sheriff, from appointing such and so many deputies, besides the said under sheriff, as he may think proper. *And further* that no person who may be deputed by any sheriff to do a particular act only shall be required to take the oath, to be taken by the deputies of sheriffs.

Deputies.

Prosecu-
tion on
bond of
sheriff.

And be it further enacted, That in case of any recovery by any party aggrieved against any sheriff for any default or misconduct in his office it shall be lawful for the justices of the supreme court, upon motion in open court, to order the bond so given by such sheriff, to be put in suit against such sheriff or his sureties, or all or any of them; and when judgment shall be obtained on such bond, the said said supreme court shall upon motion in open court, direct so much money to be levied thereon, as shall be sufficient to pay the party the debt or damages so recovered with costs, and to be paid to such party grieved; but if such sheriff or his sureties, or either of them, shall pay the debt or damages so recovered against such sheriff with costs, then such suit on such bond, shall thereupon be stayed, and be no further prosecuted. *And further*, that if after judgment obtained upon such bond, any other party aggrieved, and who shall have recovered any debt or damages against such sheriff, for any default or misconduct in his office, shall apply to the said supreme court for relief, the said supreme court shall upon motion in open court, direct such further sum to be levied on such judgment, on such bond as shall be sufficient to pay the debt or damages, so recovered with costs, and to be paid to such party aggrieved, and shall so direct as often as any recovery shall be had against such sheriff, for any misconduct or default in his office: *Provided*, that the sureties in any bond shall not be charged by virtue of this act, beyond the amount of the sums in which they shall be bound in any such bond; nor in the said counties of Delaware, Tioga, Cayuga, Onondaga, Ontario, Steuben, Essex and Clinton, beyond the amount of the one sixth part of the sum, in which they shall be bound as aforesaid. *And provided* if two or more such recoveries shall be had against such sheriff, in the same term, or at the same time, amounting together to more than the whole amount of the sums contained in such bond, the said supreme court shall order the monies to be levied thereupon, to be distributed to the parties respectively, in proportion to the amount of their respective recoveries.

And be it further enacted, That in the city and county of New York, the sheriff thereof shall have the custody of the gaol, for the confinement of persons on civil process only, and the prisoners in the same; and the sheriff of each of the other cities, and counties of this State, shall have the custody of the gaols and prisons thereof, and the prisoners in the same; and the same sheriffs respectively, shall put in such keepers for whom they will answer.

Sheriffs to have custody of jails.

And be it further enacted, That it shall be the duty of the sheriffs of the several cities and counties of this State, and the duty of the keeper of the bridewell in the city of New York, to receive into their respective gaols, and safely keep all prisoners, who shall be committed to the same, by virtue of any process to be issued under the authority of the United States, until they shall be discharged by the due course of the laws thereof; the United States supporting such of the said prisoners as shall be committed for offences against the said United States: *Provided always,* that persons committed in the city of New York, on civil process only, be committed to the gaol in the custody of the sheriff of the said city, and persons committed in the said city charged with any offence whatsoever, be committed to the gaol in the custody of the keeper of the bridewell in the said city. And in case any prisoner shall escape out of the custody of any sheriff or keeper to whom such prisoner may be committed as aforesaid, such sheriff or keeper shall be liable to the like actions and penalties as he would have been, had such prisoner been committed by virtue of any process issuing under the authority of this State; and such sheriff or keeper into whose custody any such prisoner shall be so committed, is hereby authorized to take to his own use such sums of money as shall be payable by the United States for the use of the said gaol.

United States prisoners to be received.

And be it further enacted, That no sheriffs, or other officers, by color of their office shall directly, or indirectly ask, demand, or receive for any service or act to be by them performed, in pursuance of any duty of their office, any greater or more fees than are allowed by law; on pain of forfeiting for every such offence to the party grieved his treble damages, to be recovered with costs of suit, and also the sum of two hundred and fifty dollars, the one moiety thereof to the people of this State and the other moiety to the party who shall sue for the same, to be recovered with costs of suit, in any court of record having cognizance thereof, by action of debt, or by information.

Sheriff not to receive illegal fees.

And be it further enacted That every sheriff or other officer to whom any writ shall be delivered in the county where it is to be executed, shall if required by the person delivering the same, give to such person a certificate under his hand without taking any thing therefor, wherein the names of the parties, and the day of delivering the writ, shall be mentioned, and when any writ shall be returned, the sheriff or other officer to whom the return thereof doth appertain shall put his own name to the return of the same. And if any sheriff or other officer, shall not make due return to any writ delivered to him to be executed he shall not only be liable to attachment or amercement, at the discretion of the court where such writ shall be returnable, but also to an action on the case for damages at the suit of the party grieved. And such sheriff or other officer shall be in like manner responsible, if when commanded to answer of the issues of any lands or chattels, he return less than he might, or ought to have returned. And it is hereby declared that rents, corn gathered and all moveables, (except arms, implements of trade, and household goods) be comprehended within the names of issues.

Certificate to be given to person delivering writ.

Failure of sheriff to make due return of writs.

Power of
the county.

And be it further enacted, That when the sheriff, or any of his deputies shall find that resistance will be made against any process of execution, the sheriff laying aside all other things, and taking with him the power of the county, shall forthwith go in his proper person, and do execution; and if he find resistance, he shall certify to the court the names of the resisters, aiders, and favorers, and they shall be attached to appear in the same court, and if they be convicted of such resistance, they shall be punished by fine, and imprisonment.

Prisoners
charged
with felony

And be it further enacted, That sheriffs and gaolers, shall receive from any constable, or other officer without taking any thing therefor, and safely keep in prison all felons indicted, or taken in the fact, who shall be taken by any constable or other officer; and shall not of their own authority, let out of prison on bail, or otherwise any person in their custody by virtue of any process for any treason or felony, or upon any condemnation, execution, or *capias* *utlagatum*, or committed by special order of any court, or justices, upon pain of being punished by fine and imprisonment, and to answer the damages of the party grieved, if any be thereby aggrieved.

Persons
arrested on
civil pro-
cess to be
let to bail.

Be it further enacted, That every sheriff and other officer shall let out of prison, all persons by them arrested or in their custody, by virtue of process in any personal action upon reasonable sureties of persons having sufficient within the county, where the persons be so let to bail, to answer according to the exigency of such process, (except persons so in prison by condemnation, execution, *capias* *utlagatum*, or by special order of any court or justices,) and no sheriff or other officer shall take any obligation for any cause aforesaid, or by color of their office, but only to themselves, and by the name of their office, and upon conditions written, that the prisoner named therein shall appear at the day and place required in the said process. And if any sheriff or other officer, take any obligation in other form, by color of their offices, it shall be void. And if any sheriff or other officer return upon any process, that he hath taken the body, or that such person hath surrendered himself, such sheriff, or other officer shall be chargeable to have the body according to the command of the said process, in the usual form.

Appear-
ance to be
indorsed
on process
in certain
cases.

And be it further enacted, That no person arrested by any sheriff officer or other person, by force or color of any process, issued out of the supreme court, except writs of *capias* *utlagatum*, attachments upon rescous, and attachments upon contempt, in which process the certainty and true cause of action is not expressed particularly, and for which every defendant in such process named, shall be bailable by such sheriff, or other officer as aforesaid, shall be compelled to give security, or to enter into bond with sureties for the appearance of such person so arrested, at the day and place, in such process specified. But all sheriffs and other officers shall let from their custody every person by them arrested upon any process wherein the certainty and true cause of action is not particularly expressed, (except as before excepted,) upon the person so arrested, indorsing his appearance upon such process. And where such appearance shall be so indorsed, the clerk of the supreme court, shall at the return of the said process enter the appearance of the person so indorsed; and after such appearance, no *amer- ciamment*, or attachment shall be set or had against any sheriff, or other officer, for the want of such appearance.

Process
from may-
or's court
or court of
common
pleas.

And be it further enacted, That where on any process that shall be issued out of any mayors courts, or court of common pleas, special bail is not required, and the appearance of the defendant shall be indorsed on such process, the clerk of the same court, shall at the return of the

same process, enter the appearance of every such defendant so indorsed, which shall be a sufficient appearance of every such defendant, to enable the plaintiff to proceed to judgment and execution in the suit.

And be it further enacted, That if any sheriff or other officer shall have in his custody any person by virtue of any process or warrant whatsoever, it shall not be lawful for such officer to carry the said person to any tavern, ale house, or other public victualling, or drinking house, without the voluntary consent of the said person, so as to charge such prisoner with any sum of money for any drink, victuals, or other thing whatsoever, but what the said person shall call for of his own accord; and such officer shall not directly or indirectly demand, take or receive any other or greater sum, than what by law, ought to be taken or demanded, for such arrest, taking or waiting until such person shall have procured an appearance, found bail, agreed with his adversary, or be sent to gaol; nor take or exact any other reward or gratuity for so keeping the said person out of gaol, than what such person shall of his own accord voluntarily give, nor take or receive any other or greater sum for each nights lodging, or other expences, than what is reasonable, and fitting in such cases, or shall be so adjudged by the next justice of the peace, or at the general sessions; and shall not cause the said person to pay for any drink, victuals or other things, than what such person shall voluntarily and particularly call for. And every sheriff or other officer, or person having the custody of any such prisoner, shall permit him at his own will and pleasure, to send for, & have any beer, ale, victuals, and other necessary food where and from whom any such prisoner pleases, and to have and use such bedding, linnen, and other things, as such prisoner shall think fit, without any detaining, or paying for the same or any part thereof, and shall not demand take or receive of such prisoner any other or greater fees, for his commitment release or discharge, than shall be allowable by law, nor any thing whatsoever for the chamber rent of such prisoner. *And further* it shall not be lawful for any sheriff or keeper of any gaol, to put or keep prisoners for debt, and felons together in one room, but they shall be kept separately in distinct rooms.

Requirements concerning prisoners when in custody.

And be it further enacted That every sheriff and other officer, who shall offend against any thing in either of the four last preceding sections of this act shall forfeit his office or place, and also treble damages to the party grieved, to be recovered by action of debt or information, in any court, having cognizance thereof with costs of suit.

Penalty for violation by sheriff.

And be it further enacted, That every person who shall be arrested by virtue of any writ of execution to be issued from any court of record against his or her body for any debt, or damages, by any sheriff or other officer, to whom any such writ shall be directed; and every person who shall be committed to the custody of any sheriff, or other officer in execution of any such debt or damages, shall be safely kept in prison in close and secure custody, without bail, living at his or her own costs, until such person shall satisfy such debt and damages; and if any such sheriff or other officer shall permit any such person so arrested or committed, to go out of prison, or be at large by bail or otherwise, without the assent, and agreement of the plaintiff or party, in whose favour, such execution may be, such sheriff or other officer, shall thereby become answerable to such plaintiff or party for the debt and damages for which such person was arrested or committed; and the plaintiff or party may recover the same with costs, by action of debt against such sheriff, or other officer.

Prisoners to be kept in close custody.

And be it further enacted, That if any writ shall be granted, commanding the sheriff or keeper of the prison, where any person shall be so

When prisoner not

to be let to bail.

charged in execution for any debt or damages as aforesaid, to have the body of such prisoner, with the cause of his imprisonment, in the chancery, or in any other court or before the chancellor, or any judge, and it be returned upon the said writ that such prisoner is charged in execution as aforesaid, then and in every such case, such prisoner shall be immediately remanded, and shall remain in prison, according to law, without being let to bail, against the will of the party in whose favour such prisoner shall be so charged until satisfaction be made for the sum adjudged.

What deemed an escape.

And be it further enacted, That all prisoners, either upon contempt, or mesne process, or in execution, who shall be committed to any prison, shall be actually detained within such prison, until they shall be from thence discharged by due course of law. And if at any time, the keeper of any prison, shall permit or suffer any prisoner committed to his custody, either upon contempt, or mesne process, or in execution, to go, or to be at large, out of his prison except by virtue of some writ of habeas corpus, or rule of court, which rule of court shall not be granted, but on motion made or petition read in open court every such going or being out of the said prison shall be adjudged, and is hereby declared to be an escape.

Forfeiture for permitting an escape.

And be it further enacted, That if any sheriff, or keeper of any prison shall take any sum of money, reward, or gratuity whatsoever, or any security for the same, to procure, assist, connive at, or permit any escape of any prisoner in his custody, and shall be thereof lawfully convicted, every such sheriff or keeper, shall for every such offence forfeit the sum of one thousand two hundred and fifty dollars, and his said office, and be for ever after incapable of executing the said office.

Plea of retaking.

And be it further enacted, That no retaking on fresh pursuit, shall be given in evidence on the trial of any issue, in any action of escape against any sheriff or keeper of any prison, unless the same shall be specially pleaded, or notice thereof in writing be given with the general issue, and no such special plea of retaking on fresh pursuit, or plea of the general issue with notice of such special matter shall be received or allowed unless oath be made in writing by such sheriff, or keeper of any prison, against whom such action shall be brought, and filed with such plea, that the prisoner for whose escape such action is brought, did without his consent, privity or knowledge, make such escape: And if such affidavit shall at any time afterwards appear to be false, and such sheriff or keeper of any prison shall be convicted thereof by due course law, he shall forfeit the sum of one thousand two hundred and fifty dollars.

Remedy of creditor on escape of prisoner.

And be it further enacted, That if any person who shall be taken on any execution, or committed thereon to any prison, shall escape by any ways or means howsoever, the creditor at whose suit such prisoner was taken or charged in execution, may retake such prisoner, by any new capias, or capias ad satisfaciendum, or sue forth any other kind of execution on the judgment as if the body of such prisoner had never been taken in execution.

Delivery of process to imprisoned defendant by sheriff.

And be it further enacted, That every sheriff, officer, or keeper of any gaol, upon whom any copy of a declaration against any prisoner in his custody by virtue of any process out of any court of record shall be served, shall within ten days thereafter deliver the same to the defendant or defendants named therein, with a note of the time of the service thereof upon such sheriff, or officer as aforesaid; and if any such sheriff, officer or keeper, to whom any such copy of any declaration shall be delivered as aforesaid shall neglect to deliver the same as aforesaid he shall be answerable to such defendant or defendants for all damages occasioned by such neglect.

CHAP. 29.**AN ACT relative to treason.**

PASSED the 20th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That if any person do levy war against the people of this State within this State, or be adherent to the enemies of the people of this State, giving to them aid and comfort in this State, or elsewhere and be thereof attainted of open deed, such offences and no other shall be adjudged, treason against the people of this State. Treason, what is.

And be it further enacted That concealment or keeping secret any treason, shall be from henceforth adjudged, deemed and taken to be, misprision of treason. Misprision of treason.

And be it further enacted That all trials to be had for any treason or misprision of treason, shall be had according to the course of the common law and this act and not otherwise. Trial by common law.

And be it further enacted That every person who shall be indicted for treason or misprision of treason shall (if he or his agent or attorney require it) have a true copy of the whole indictment, with a list of the witnesses to be produced on the trial for proving the said indictment, mentioning their names, profession and place of abode, delivered unto him five days at least before he shall be tried for the same, and that every person indicted or tried for any treason or misprision of treason shall be admitted to make his full defence by counsel and to make any proof that he can produce for his defence by witnesses on oath. And in case any person indicted shall desire counsel, the court before whom he shall be tried, or some judge thereof shall immediately upon his request assign to such person so many counsel not exceeding two, as he shall desire, to whom such counsel shall have free access at all seasonable hours. And that every person who shall be indicted and tried for any treason or misprision of treason shall have a copy of the panel, containing the names places of abode and additions of the jurors who are to try him, duly certified by the sheriff, and delivered to him four days at least before he shall be tried. And that all persons so indicted shall have like process of the court where they shall be tried, to compel their witnesses to appear for them at such trial as is usually granted to compel witnesses to appear against them. How prosecution conducted; indictments.

And be it further enacted That no person shall be indicted tried or attainted of treason or misprision of such treason, but by and upon the oath and testimony of two lawful witnesses, either both of them to the same overt-act, or one of them to one, and the other of them to the other overt-act of the same treason; unless the party indicted and arraigned or tried, shall willingly, without violence, in open court confess the same; and if two or more distinct treasons of divers heads or kinds, shall be alleged in one bill of indictment, one witness produced to prove one of the said treasons, and another witness to prove another of the said treasons, shall not be deemed or taken to be two witnesses to the same treason within the meaning of this act. *And further* that no evidence shall be admitted or given of any overt-act that is not expressly laid in the indictment; and if any person arraigned for treason or misprision of treason shall peremptorily challenge above the number of thirty five of the jurors returned for the trial of such person, such challenge shall be disallowed, and the trial shall proceed as if no such challenge had been made. What proof required.

Treason
upon the
sea.

And be it further enacted That all offences by this act declared to be treason, which shall be committed upon the land, out of this State, or upon the sea, shall and may be enquired of heard and determined in the supreme court of this State, by good and lawful men of the same county where the said court shall sit in like manner and form, to all intents and purposes as if the said treasons had been committed within the same county.

Outlawry
for treason

And be it further enacted That any person being indicted for any treason or misprision of treason may be outlawed, and thereby attainted of or for any of the said offences ; and that all process of outlawry to be had and made within this State against any such offenders being resident or inhabiting out of the limits of this State at the time of the outlawry pronounced against them shall be as effectual in the law as if such offenders had been resident and dwelling within this State, at the time of such process awarded, and outlawry pronounced : But if the party so outlawed being out of the State as aforesaid, shall within one year next after the said outlawry pronounced, or judgment given upon the said outlawry, yield or surrender himself to either of the justices of the said supreme court for the time being, and offer to traverse the indictment whereupon the said outlawry shall be pronounced as aforesaid, then he shall be received to make the said traverse ; and if he shall thereupon be found not guilty by the verdict of the jury, he shall be acquitted, and discharged of the said outlawry, and of the penalties and forfeitures by reason of the same ; and upon the trial of such traverse the defendant shall in all respects have the benefit of this act.

Indict-
ments not
to be dis-
missed for
mis-writing

And be it further enacted, That no indictment for any of the offences aforesaid, nor any process or return thereupon, shall be quashed on the motion of the prisoner or his council for mis-writing or mis-spelling, unless exceptions concerning the same be taken and made in the court where such trial shall be, by the prisoner or his counsel before any evidence given in open court upon such indictment ; nor shall any such mis-writing or mis-spelling after conviction on such indictment, be any cause to stay or arrest judgment thereupon ; but nevertheless any judgment given upon such indictment shall be liable to be reversed upon a writ of error in the same manner as if this act had not been made.

Forfeiture
of property
on convic-
tion.

And be it further enacted That every person, being hereafter lawfully convicted for any manner of treason, shall forfeit to the people of this State, all such lands tenements and hereditaments which such offender shall have of any estate of inheritance in his own right at the time of such treason committed, or at any time after ; and also all his goods and chattels, saving to every person and his heirs, other than the offender and his heirs, all such rights and interests in law or equity which they or any of them shall have at the day of committing such treason, or at any time before, in as large and ample manner as if this act had not been made ; and the people of this State without any office or inquisition to be found, shall be deemed and adjudged in the actual possession of all the real and personal estate of the person so convicted or attainted, which the people of this State ought lawfully to have, and which the offender so convicted or attainted, shall so lose and forfeit.

Attainder
not to cor-
rupt blood.

And be it further enacted, That no attainder of any person of treason or misprision of treason, shall extend to corrupt the blood of the offender, or to forfeit the dower of his wife.

CHAP. 30.

AN ACT, concerning idiots, lunatics, and infant trustees.

PASSED the 20th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the chancellor shall have the care and provide for the safe keeping of all idiots and lunatics, and of their real and personal estate, and for their maintenance, and also for the maintenance of the families of such lunatics, and the education of their children, out of the personal estate of such idiots and lunatics, and the rents and profits of their real estates respectively, having regard to the amount and value of the same, and shall take care that the same be not wasted or destroyed.

Chancellor
to have
care of
idiots and
lunatics.

And be it further enacted, That every committee of the estate of any idiot or lunatic shall within six months after their appointment file in the office of the register of the court of chancery an inventory of the whole real and personal estate of such idiot or lunatic, and therein state the income and profits thereof, and the debts and credits of such idiot or lunatic, and make oath of the truth of such inventory, which oath the said register or a judge of any court of common pleas or any master in chancery is hereby authorised to administer.

Inventory
to be filed
by com-
mittee.

And be it further enacted, That when the personal estate of any idiot or lunatic shall not be sufficient for the discharge of his debts, it shall be the duty of the committee for the estate of such idiot or lunatic to present a petition to the chancellor, setting forth the particulars and amount of the estate real and personal of such idiot or lunatic, and of the debts by him owing; and, if it shall appear to the chancellor that the personal estate is insufficient for the payment of his debts, he shall direct a sale of the whole, or such part of the real estate of such idiot or lunatic as he may think necessary for the discharge of his debts; and that whenever the rents, profits and income of the estate of any idiot shall be insufficient for his maintenance, or of any lunatic shall be insufficient for the maintenance of him and his family, and the education of his children, it shall be lawful for the chancellor, upon the like petition, and if upon the whole matter, he shall think it most beneficial, to direct a sale of the whole real estate of the said lunatic or idiot, or of so much and such part thereof, as the said chancellor shall deem proper, and to direct how the proceeds of such sales shall be secured, and the income, or produce thereof appropriated; and that it shall be lawful for the chancellor if he shall see cause, to join one or more persons with the said committee for the purpose of conducting such sales, and to give such orders, and directions respecting the time and manner thereof, as to him shall seem proper.

Sale of
real estate.

And be it further enacted, That in case any idiot, or lunatic shall hold any real estate in joint tenancy, coparcenary, or in common and the interest of such lunatic or idiot, or of any of the parties concerned therein, shall require a partition of such estate, then it shall be lawful for the said committee, by and with the consent and approbation of the chancellor to agree to a partition of such estate, and thereupon to execute deeds, or releases of the right of such lunatic or idiot to the part or parts falling to the share of the other joint tenants, coparceners or tenants in common; which deeds or releases shall be valid in law to convey the share and part of such lunatic and idiot: *Provided always* that no deed shall be executed by any such committee by virtue of this

Partition
of lands
owned in
part by
lunatic or
idiot.

act until after a report shall be made to the chancellor of such sale or partition, and the same be approved of by him.

Contracts
executed
by lunatic.

And be it further enacted, That the chancellor shall have power to decree and compel a specific performance of any bargain, contract or agreement, which may have been made by any lunatic, while in sound mind, to the like effect as if he had continued sane: And to direct the committee of the estate of such lunatic to do and execute all necessary acts for that purpose.

Disposition
of estate
on recovery
or death.

And be it further enacted, That the real estate of any idiot or lunatic shall not be aliened or disposed of otherwise than is directed by this act; and in case any lunatic shall recover his right mind, his real and personal estate, or the residue thereof, shall be restored to him, and in case of the death of any idiot, or of any lunatic during his lunacy, the real estate of such idiot or lunatic or the residue thereof shall descend to his heirs, and his personal estate or the residue thereof shall be distributed among his next of kin.

Convey-
ances by
infant
trustees by
order of
the court
of chan-
cery.

And be it further enacted, That it shall be lawful for any infant seized or possessed of any lands, tenements or hereditaments by way of mortgage, or in trust only for others, to convey the same by the direction of the court of chancery signified by an order made on hearing all parties concerned and on the petition of such infant, or his guardian or of any person in any way interested therein; and such infant may be compelled by such order, to convey and assure any such lands, tenements, or hereditaments to any other person in such manner as the said court by such order shall direct, and such conveyance or assurance shall be as good and effectual in the law as if the same were made by such infant, when of lawful age.

CHAP. 31.

AN ACT, for the better apprehending of felons, and other offenders.

PASSED the 20th of March, 1801.

Pursuit of
felons.

Be it enacted, by the People of the State, of New York, represented in Senate and Assembly; That when any felony shall be committed, public notice thereof shall be immediately given, in all public places near where the same was committed, and fresh pursuit shall be forthwith made after every such felon, by sheriffs, coroners, constables, marshals, and all other persons, who shall be by them commanded or summoned, for that purpose, and every competent person, who will not do so, and be thereof convicted, shall be punished by fine, according to the discretion of the court having cognizance of the offence; and every such officer, who shall conceal, or procure to be concealed any felony, or who shall not do his duty in the premises, and be thereof convicted, shall be punished by fine, and imprisonment, in the like discretion of any court having cognizance of the offence.

Arrest of
person in
another
county
than where
warrant
issued;
bail.

And be it further enacted, That in case any person, against whom any warrant, shall be issued, by any justice of the peace, for any offence, shall escape, or be in any other county, out of the jurisdiction of the justice, granting the warrant it shall be the duty of any justice of the peace, of the county, where such person shall be, upon proof of the hand writing of the justice granting the warrant, to indorse his name, on the same, which shall be a sufficient authority to the person bring-

ing the warrant, and to all other persons to whom it was directed, to arrest the offender, in the county where the warrant was indorsed, and to bring him before any justice of such county, and in case the offence be bailable, and the offender be willing and ready to give bail to appear and answer at the next court having cognizance of the offence in the county, where it was committed, the justice before whom he is brought shall take bail accordingly, and deliver the recognizance, examination of the prisoner, and all the proceedings before him had, to the officer or other person having charge of the prisoner, who shall take, and deliver the same, to the clerk of the court, in which such offender, is bound to appear, and such recognizance, and examination, or confession, shall be equally valid, as if taken in the county where the offence was committed: And any officer, or other person refusing, or neglecting to deliver over the same, to the clerk as aforesaid, shall forfeit twenty five dollars, to be recovered against him by action of debt, or information, by any person who will sue therefor. And if such offence be not bailable, or the offender shall not give bail to the satisfaction of the justice, before whom he shall be so brought, then the officer or other person, having charge of the prisoner, shall convey him to a justice of the peace, of the county, where the offence was committed, there to be dealt with according to law. *And further* that no action shall be brought against any justice, who shall indorse a warrant, as aforesaid, for indorsing the same, but such action may be brought against the justice, who originally granted the warrant, in the same manner, as if the offender had been arrested in the county, where the warrant was granted.

CHAP. 32.

AN ACT, concerning counsellors, attornies, and solicitors.

PASSED the 20th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That every person of full age, and sound memory, other than defendants in cases where corporal punishment may be inflicted, may appear by attorney in every action or plea by or against him in any court in this State, or may at his election prosecute or defend the same action or plea in proper person. Parties may appear by attorney.

And be it further enacted, That all warrants of attorney of the parties in all actions and pleas in any court of record, shall be taken before a judge of the court in which such action or plea shall be depending, and, if such action or plea be depending in the supreme court, then the same may also be taken before a judge of any court of common pleas, who shall certify and deliver the same to the party acknowledging it; and all such warrants may be acknowledged by the party or his agent duly authorised for that purpose in writing; and where any infant shall sue, some next friend of such infant shall be admitted in manner aforesaid to sue for such infant; and where such infant shall be impleaded, a guardian shall in like manner be appointed to defend for him. Warrants of attorney

And be it further enacted, That the attorney for the party bringing the action, shall file his warrant of attorney with the clerk of the court where the action is depending the same term he declares, and the attorney for the opposite party shall file his warrant of attorney as aforesaid, the same term he appears, and in default thereof shall make satisfaction Warrants of attorney to be filed.

to the party grieved, according to the discretion of the court where such default shall be made. And every attorney who shall confess any judgment in any case, shall at the time of making such confession, produce his warrant for making the same to the court or judge before whom he makes the confession, and the warrant shall then be filed with the clerk of the court in which the judgment shall be entered.

Admission
of coun-
sellors, at-
torneys, and sol-
licitors.

And be it further enacted, That no person shall be admitted a counsellor, attorney, or solicitor in any court, unless he be approved of by such court, for his good character and learning, and the name of every person admitted, shall be put in a roll or book to be kept in each court for that purpose; and every person so admitted, shall upon such admission, in open court, take and subscribe an oath of office in the words following: "I do swear, that I will truly and honestly demean myself in the practice of an attorney, (or counsellor, or solicitor as the case may be,) according to the best of my knowledge, and ability."

Disbarring
for deceit
and mal-
practice.

And be it further enacted That if any counsellor, attorney, or solicitor shall be found notoriously in default of record or otherwise guilty of any deceit, malpractice or misdemeanor he may be suspended, or put out of the roll, at the discretion of the court, and if put out of the roll shall never afterwards be received to act as a counsellor, attorney or solicitor in any court; *and further* that when any attorney shall die or cease to act, or be put out of the roll of attorneys, the person for whom he was attorney shall be warned to appoint another attorney in his place.

Damages
against
counsellor
for mal-
conduct.

And be it further enacted That if any counsellor, attorney or solicitor be guilty of any manner of deceit, or collusion, or consenting thereto, whereby to deceive the court or the party, he shall be punished by fine and imprisonment, and the party grieved shall have his action against him, and recover therein treble damages and costs of suit; and if any attorney or solicitor shall wilfully delay his clients suit work to his own gain, or wilfully demand by his bill any money or allowance for or upon account of any money, which he hath not laid out or become answerable for, the party grieved shall have the like action and recovery as aforesaid; and if any attorney shall knowingly and willingly permit or suffer any other person, to sue out any writ, or prosecute or defend any action in his name, such attorney as well as such person shall each of them forfeit for every such offence the sum of fifty dollars; the one moiety thereof to the people of this State, and the other moiety to the party grieved, to be recovered by action of debt, or by information in any court of record.

Writs and
process
to be in-
dorsed
with attor-
ney's name

And be it further enacted, That every process by which any party is to be arrested, and every writ of execution, or some label annexed shall before service or execution thereof, be subscribed or indorsed with the name of the attorney, or person by whom the same process or writ of execution shall be sued forth.

Action to
recover
fees.

And be it further enacted, That no attorney, solicitor, sheriff or coroner shall commence any action for recovery of any fees or charges until eight days after he shall have delivered to the party to be charged therewith, or left for him at his dwelling house, or last place of abode, a bill of such fees and charges, written in a common legible hand in the English tongue, (except law terms and the names of writs, and in words at length, except times, and sums and such abbreviations as are commonly used in the English language,) subscribed with the proper hand writing of such attorney, solicitor, sheriff, or coroner.

Certain
persons
not to act

And be it further enacted That no clerk, deputy clerk, register or deputy register of any court, nor any examiner, or master of the court

of chancery shall act as counsellor, attorney, or solicitor in any action ^{as attorney.} or matter in the same court; and that no under sheriff, sheriff's clerk, or coroner shall, during his continuance in office, act as a counsellor, attorney, or solicitor in any court, and that the attorney general shall not act as attorney or solicitor in any private suit, unless the people of this State, shall be interested in the event of such suit: *Provided nevertheless*, that the clerk of the circuit court and sittings in the city of New York, and the clerks of the circuit courts of this State, may practice as attornies and counsellors in the supreme court.

CHAP. 33.

AN ACT relative to the office and duties of the treasurer of this State.

PASSED the 20th of March, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That as often as a treasurer of this State shall be appointed, the secretary of this State shall forthwith give notice thereof to the person so appointed, and such person if he accepts the said office, shall before he enters upon the execution thereof, and within ten days after such notice, appear before one of the justices of the supreme court, and take the following oath: "I ^{State treasurer, oath of office of.} appointed treasurer of the State of New York do solemnly and sincerely swear and declare in the presence of Almighty God, that I will during my continuance in the said office well faithfully, and honestly, to the best of my knowledge and abilities execute all and every of the duties appertaining to the said office, and that I will not on any occasion or pretence apply any money, securities or other effects which may or shall come into my hands, belonging to the said State, to any private use or purpose whatsoever, and that whenever called on by the legislature, I will exhibit a true account of such monies, securities and other effects, under this my oath of office, so help me God." And shall also within the same time and before he enters upon the execution of his office, give bond in the sum of ^{Bond to be given.} fifty thousand dollars to the people of this State, with not less than four sufficient sureties, to be approved of by the president of the senate, and the speaker of the assembly, conditioned that such person shall and will, well, faithfully and honestly execute and perform the duties of the office of treasurer of this State, and that he will not during his continuance in office be concerned directly or indirectly in any trade, or merchandize whatsoever, which bond shall be lodged in the office of the secretary of this State, and shall be deemed to extend to the faithful execution of the said office of treasurer by such person, until a new appointment of treasurer be made and a new bond given under such appointment.

And be it further enacted, That the said office of treasurer shall be kept in the city of Albany, or in that part of the town of Watervliet ^{Office, where kept} lying between the north bounds of the said city and the creek commonly called the Fish creek, and not more than one mile from Hudsons river.

And be it further enacted, That in case of the death or inability of any treasurer to execute his said office during the recess of the legislature, it shall be lawful for the president, directors, and company of the bank of Albany, to execute the said office, in respect to the receiving ^{Vacancy in office.}

and paying money in the same manner as the treasurer of this State is or shall be authorized and directed to do by law until other provision be made, and the person administering the government of this State, shall in such case by proclamation give public notice of such death or inability.

Annual
report to
legislature.

And be it further enacted, That the treasurer of this State shall annually lay before the legislature, at their first meeting after the first day of January in every year, a true and exact statement of the balance in the treasury due to the people of this State, with a summary of the receipts and payments of the treasury during the preceding year.

Banks of
deposit.

And be it further enacted, That the banks of New York and Albany, shall be the places of deposit for all monies which may at any time be in the treasury of this State; and the treasurer is hereby directed and required to deposit all monies which may from time to time come into his hands on account of this State, in one or other of the said banks, within three days after receiving the same, and the monies so deposited by the treasurer shall be placed to his account as treasurer.

Discharge
of bond of
treasurer.

And be it further enacted, That if any person appointed to the office of treasurer of this State, shall after a new appointment be made, and after the execution of the office under such new appointment be commenced, procure and file in the office of the secretary of this State a certificate duly executed by the committee to be appointed to settle and audit the accounts of such person as treasurer, expressing that his accounts as treasurer are regularly stated and balanced, and also that the balance of monies, securities and other effects, if any there be, are actually in the treasury, or deposited as by law directed, such certificate so filed in the office of the said secretary shall be a discharge of the bond given by such person, and his sureties under the former appointment; and such bond may thereupon be delivered up by the said secretary to such person or his sureties to be cancelled.

CHAP. 34.

AN ACT, for suppressing immorality.

PASSED the 20th of March, 1801.

Certain
acts on
Sunday
declared
unlawful.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That there shall be no travelling, servile labouring, or working, (works of necessity and charity excepted,) shooting, fishing, sporting, playing, horse racing, hunting, or frequenting of tipling houses, or any unlawful exercises or pastimes, by any person or persons within this State, on the first day of the week commonly called Sunday. And that every person being of the age of fourteen years, or upwards, offending in the premises, shall for every such offence forfeit and pay to the use of the poor of the city or town where such offence shall be committed, the sum of seventy five cents. And that no person shall expose to sale any wares, merchandize, fruit, herbs, goods, or chattles, upon the first day of the week, commonly called Sunday, except small meat, and milk and fish, before nine of the clock in the morning, upon pain that every person so offending shall forfeit the same goods so exposed to sale, to the use of the poor of the city or town where such offence shall be committed; and if any person offending in any of the premises, shall be thereof convicted, before any justice of the peace for the

county, or any mayor, recorder, or alderman of the city, where the offence shall be committed, upon the view of the said justice, mayor, recorder, or alderman, or confession of the party offending, or proof of any witness, or witnesses upon oath, then the said justice, mayor, recorder, or alderman, before whom such conviction shall be had, shall direct and send his warrant, under his hand and seal to some constable of the city or county, where the offence shall have been committed, commanding him to seize and take the goods so exposed to sale as aforesaid, and to sell the same, and to levy the the said other forfeitures or penalties, by distress and sale of the goods and chattles of such offenders, and to pay the money arising by the sale of such goods so seized, and the said other forfeitures or penalties to the overseers of the poor of the city or town, where the said offence or offences shall have been committed for the use of the poor thereof. And in case no such distress can be had, then every such offender shall, by a warrant under the hand and seal of the said justice, mayor, recorder, or alderman, be set publicly in the stocks, for the space of two hours. *And further*, that if any person shall be found fishing sporting, horseracing, hunting, gunning, or going to, or returning from any market or landing, with carts, waggons, or sleds, on the first day of the week called Sunday, it shall be lawful for any constable, or other citizen to stop every person so offending, and to detain him or her until the next day, and then to carry or convey him or her to some justice of the peace to be dealt with according to law. *Provided always*, that no person, going to, or returning from any church, or place of worship within the distance of twenty miles, or going to call a physician, surgeon, or midwife, or carrying a mail to or from any post office, or going express by order of any public officer, or shall be removing his family or household furniture if such removal be not commenced on such day, shall be considered as travelling within the meaning of this act.

And be it further enacted, That if any person charged with having laboured or worked on the first day of the week called Sunday, and shall be brought before a justice of the peace to answer to such charge, and shall then and there prove to the satisfaction of the said justice, that he or she uniformly keeps the last day of the week as holy time and does not labour or work on that day, then such defendant shall be discharged. *Provided always*, that the work, or labour with which he or she is charged, has not disturbed other persons in the observance of the first day of the week as holy time.

Persons
who ob-
serve Sat-
urday as
holy time.

And be it further enacted, That no tavern keeper; ale or porter house keeper, innkeeper, or any person retailing strong or spirituous liquors ale or porter within this State, shall sell or dispose of any such liquors, on the first day of the week commonly called Sunday, to any person whatsoever, (lodgers and travellers tolerated by law excepted,) and that every person offending in the premises, and being thereof duly convicted before any mayor, recorder alderman or justice of the peace of the city or town where the same shall have been committed, upon the view of the said mayor, recorder, alderman, or justice of the peace, or on confession of the party so offending, or upon the oath of one or more credible witnesses, shall forfeit and pay for every such offence the sum of two dollars, and fifty cents.

Sale of
liquors on
Sunday
prohibited.

And be it further enacted, That no person, upon the first day of the week, commonly called Sunday, shall serve or execute, or cause to be served or executed, any writ, process, warrant, order, judgment, or decree, (except in cases of treason, felony, or breach of the peace,) but that the service thereof shall be void; and any person so serving or

Process
not to be
served on
Sunday.

executing the same, shall be liable for damages, at the suit of the party grieved.

Profane swearing.

And be it further enacted, That if any person shall at any time hereafter profanely swear, or curse, and be thereof convicted, by the confession of the party offending, or on the oath of any one or more witnesses, or in the manner hereinafter mentioned, before any justice of the peace for any county, or any mayor, recorder, or alderman of any city in this State; every person so offending, shall for every such offence, forfeit and pay to the use of the poor of the city or town where such offence shall be committed, the sum of thirty seven and an half cents.

Summary conviction, when may be had.

And be it further enacted, That in case any person, shall profanely swear, or curse, in the presence and hearing of any justice of the peace for any county, or in the presence and hearing of any mayor, recorder, or alderman of any city, while in the execution of his office, every such justice of the peace, mayor, recorder, or alderman, shall and he is hereby authorised and required to convict every such offender of such offence, without any other proof whatsoever.

Profane swearers to be exposed in the stocks.

And be it further enacted, That in case any person who shall be convicted of profanely cursing, or swearing, shall not immediately pay the respective sums so forfeited, with the charges of such conviction, or give security to the satisfaction of the justice, mayor, recorder, or alderman, before whom such conviction is had, for the payment thereof within six days then every such offender, being above the age of sixteen years, shall by warrant under the hand and seal of such justice, mayor, recorder, or alderman be set publicly in the stocks, for the space of one hour for every single offence, and for any number of offences, whereof any such offender shall be convicted at one and the same time, two hours; but if the offender shall not be above the age of sixteen years, and shall not forthwith pay the said forfeitures, or give security for the payment thereof, the parent or master shall pay the same, to be recovered as aforesaid.

Penalty for being drunk

And be it further enacted, That if any person shall be drunk and be thereof lawfully convicted, before any justice of the peace for the county, or before the mayor, recorder, or any alderman of the city wherein any such offence shall be committed, either upon the view of such justice, mayor, recorder or alderman, or upon the confession of the party offending, or proof of any one, or more witnesses on oath, every person so offending, shall forfeit and pay for every such offence thirty seven and an half cents, to the use of the poor of the city or town wherein such offence shall be committed. And in case any person, who shall be convicted of drunkenness as aforesaid shall not immediately pay the sum so forfeited, with the charges of such conviction, or give security to the satisfaction of the justice, mayor, recorder, or alderman, before whom such conviction is had, for the payment thereof within six days, every such offender shall by warrant under the hand and seal of such justice, mayor, recorder, or alderman, be set publicly in the stocks, for the space of two hours.

Prosecution of offenders against this act.

And be it further enacted, That every justice of the peace, mayor, recorder, or alderman, shall immediately upon information given, upon the oath of any person, cause every offender against this act, to appear before him, and upon such information being proved as aforesaid, shall convict such offender in such manner as in and by this act is prescribed.

Certificate of conviction, form of.

And be it further enacted, That every justice of the peace, mayor, recorder, and alderman, before whom any person shall be, by virtue of this act, convicted of any of the offences aforesaid, shall cause such conviction to be drawn up in the form following, "CITY OF NEW YORK,

(or Westchester county, or other city or county, as the case may require,) to wit: Be it remembered that on the _____ day of _____ in the year of our Lord, one thousand _____ A. B. was convicted before me, C. D. (mayor or recorder, or one of the aldermen of the said city, (or one of the justices of the peace of the said county,) of crying or shewing forth, or exposing to sale) one, (or, two or more, specifying the number, quantity and kind of goods,) on a Sunday in the said city, (or the town of _____) in the said county, (or of travelling or doing servile work or labour; or of shooting, fishing, sporting, playing, horse-racing, hunting, or, frequenting tipling houses, or using some unlawful exercise or pastime,) on Sunday; or, of swearing one, (or two or more,) profane oath, or oaths, or of uttering, (one or more,) profane curse, (or curses,) or of having been drunk in the said city, (or at the town of _____ in the said county,) as the case may require. Given under my hand and seal the day and year above said." And no conviction, or adjudication by virtue of this act, shall be liable to be removed by certiorari into the supreme court but shall be deemed and taken to be final.

And be it further enacted, That in all actions to be brought by virtue of this act, the like fees shall be allowed, and taken, as in cases of civil suits, before justices of the peace and no more; and that all charges of the information, and conviction, of any such offenders, shall be paid by the party offending over and above the penalties inflicted by this act; which charges shall be ascertained, and settled by the mayor, recorder, alderman, or justice, before whom such conviction shall be had, but shall in no case exceed the sum of five dollars; and that all penalties, which shall be adjudged, levied and collected by virtue of this act, shall be received by the magistrate before whom such conviction and adjudication was had, and shall by him within thirty days after the receipt thereof, be paid over for the use of the poor, in the city or town, where the same was so levied, and collected. *Provided always* that if the offender shall be set in the stocks, for the same offence, no charges shall be paid by any person whomsoever.

And be it further enacted, That no person shall be prosecuted for any offence against this act, unless the same shall be prosecuted within twenty days next after the offence committed.

And be it further enacted, That if any action shall be brought against any person, for doing, or causing to be done, any thing in pursuance of this act, the defendant in such action may plead the general issue, and give the special matter in evidence. And if in any such action, a verdict shall be given for the defendant, or the plaintiff become nonsuit, or discontinue his action, then the defendant shall have treble costs.

Fees for proceedings under this act.

Prosecution to be brought in twenty days.

Actions for things done by virtue of this act.

CHAP. 35.

AN ACT confirming the partition of certain lands therein mentioned.

PASSED the 20th of March, 1801.

WHEREAS it appears to this legislature that Oliver Phelps, Augustus Porter, Peter B. Porter, Samuel Hinckley, Silas Graves, Justin Ely, John Stone, Charles Harford, Waterman Ely, William W. Williams, Zadock Granger and Gideon King, did by mutual consent make divis-

Preamble.

ion of a certain tract of land whereof they were seized as tenants in common in fee, situate in township number one in the short range of townships so called, west of the Genesee river in the county of Ontario, containing twenty thousand and one hundred acres, according to their respective shares therein, and in pursuance of such division, did execute a partition deed, between all of the said parties, bearing date the seventh day of January in the year of our Lord one thousand seven hundred and ninety eight, except as to the said Gideon King, who after making the said division, and before the execution of the said partition deed, deceased; whereupon the said proprietors have prayed relief in the premises. Therefore

Partition confirmed.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That upon the said proprietors causing the said partition deed, executed as aforesaid, to be recorded, the same being first duly proven, in the clerks office of the said county of Ontario, and filing therein the map of the said lands containing the division aforesaid, subscribed by the same persons executing the said partition and Simon King and Thomas King two of the children and heirs of the said Gideon King, then and from thenceforth the partition of the said lands shall be and is hereby confirmed, and the releases contained in the same deed, declared as valid, as if the same had been executed by the said Gideon King in his life time.

CHAP. 36.

AN ACT to establish a turnpike corporation for improving and making a road from the village of New Burgh on Hudson's river to Cochechton on the Delaware river.

PASSED the 20th of March, 1801.

Newburgh and Cochechton turnpike road.

I. Be it enacted by the People of the State of New York represented in Senate and Assembly, That Robert Bowne, John Dewint, William Seymour, Johannis Miller, Levi Dodge, Hugh Walsh, George Clinton Junr., Jacob Powell, John McAulay, Charles Clinton, William W. Sackett, Samuel McCoun, George Gardner, and all such others as shall associate for the purpose of making a good and sufficient road, to run in the nearest, most convenient and direct route, as far as circumstances will admit, from the village of New Burgh on Hudson's river, to Cochechton on the Delaware river, their successors and assigns be, and they hereby are created and made a body corporate and politic, by the the name of "The president directors and company of the New Burgh and Cochechton turnpike road;" and they are hereby ordained, constituted and declared to be a body corporate and politic, in fact and in name, and by that name, they and their successors, shall and may have continual succession; and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors, by the same name and title, shall be in law capable of purchasing holding and conveying any estate real and personal for the use of the said corporation; *provided* that the amount of the real estate which the said corporation are hereby authorized to purchase and hold, shall not exceed twelve thousand dollars; *and provided further* that such estate, as well real as personal so to be pur-

chased and held, shall be necessary to fulfil the end and intent of the said corporation, and to no other purpose whatsoever.

II. *And be it further enacted* That Robert Bowne, John Dewint, Johannis Miller and William Seymour be, and they are hereby appointed commissioners to do and perform the several duties herein after mentioned, that is to say; they shall on or before the first day of June next procure four books, and in each of them enter as follows, "We whose names are hereunto subscribed, do, for ourselves and our legal representatives promise to pay to the president directors and company of the New Burgh and Cochechton turnpike road" the sum of twenty five dollars for every share of stock in the said company, set opposite to our respective names in such manner and proportion, and at such time and place as shall be determined by the said president directors and company;" one of which books shall be left with each of the said commissioners at their respective places of abode, who shall immediately open the same, and keep the same open for the purpose of receiving subscriptions; and every subscriber shall at the time of subscribing pay unto either of the said commissioners three dollars for each share so by him subscribed; and the said commissioners shall, as soon as five hundred shares are subscribed cause an advertisement to be inserted in one of the public newspapers printed in the city of New York, and also in the paper printed in New Burgh or Goshen, giving at least ten days notice of the time and place when and where, the said subscribers shall meet to chuse thirteen directors, who shall be stockholders, for the purpose of managing the concerns of the company for one year, and the said directors shall be chosen by ballot by the stockholders then present and the day of chusing the said directors shall for ever thereafter be the anniversary day for chusing directors, and any seven of the said directors shall be a quorum, and capable of transacting the business of the said corporation; and every act of a majority of the directors so met shall be binding on the said corporation; and the said directors elected by a plurality of the stockholders present, shall immediately proceed to elect by ballot, one of their number for president: And the said president and directors may meet from time to time at such place as they may find expedient and direct; and they shall have power to make such bye laws, rules, orders and regulations not inconsistent with the constitution and laws of this State or of the United States as they shall deem necessary for the well ordering the affairs of the said corporation; *provided* that at the election of directors, the stockholders not present may vote by proxy for directors, and each stockholder shall be entitled to one vote for every share he shall hold under the number of ten shares, and one additional vote for every ten shares he shall hold above the number of ten shares —

Commissioners to receive subscriptions to stock.

Election of directors.

III. *And be it further enacted*, That in case of the death, absence or inability of the president, a quorum of the directors met, may chuse or appoint a president pro tempore, and shall and may proceed and transact the business of the said corporation in like manner as if the president were present with them —

Absence of president.

IV. *And be it further enacted*, That the said president and directors may continue to receive subscriptions to the stock of the said corporation untill there shall have been three thousand two hundred shares subscribed and shall have power to appoint such officers, agents, clerks, artists, workmen and others under them as shall be necessary for executing the business of the said corporation —

Amount of stock, power of directors.

V. *And be it further enacted* That the said corporation by the president and directors, or by any agent, superintendant, artist or other per-

Powers granted to

corpora-
tions.

son or persons employed in their service, may enter into and upon any land, where they shall deem it proper to construct the said road, and to lay out and survey such tracts, or routes as shall be deemed most practicable for making a good and sufficient road between the places aforesaid; and the said president and directors may contract and agree with the owners of the said land, for the purchase of so much thereof as shall be necessary, for the purpose of making the said road, and for erecting and establishing gates, toll houses, and all other works to the said road belonging; and in case of disagreement between the said parties with respect to the value of the land so as aforesaid to be laid out, and the damages (if any) to be done to the land, or if the owner or owners shall be females, minors, insane, under age, or out of the county, then and in either such case, it shall and may be lawful for the said president and directors to apply to one of the judges or assistant justices of the court of common pleas in and for the county where such lands shall be situated, not interested in said road, who is hereby authorized and required, to nominate and by instrument in writing signed by him to appoint three commissioners being freeholders of the said county, and who shall not be inhabitants of any of the towns through which the said road shall pass; and it shall be the duty of the said president and directors to give notice to the said commissioners of their appointment, who, or any two of them, shall thereupon name a day for meeting on the land and performing the duties required of them by this act, which day shall not be more than ten, nor less than four days from such notice of their appointment; and the said president and directors shall give at least four days notice to the owner or owners of such land, of the time when, and place where, the said commissioners will meet for the purpose of viewing the land and assessing the damages; except in case the owner or owners, shall labor under any of the disabilities aforesaid, or be absent, in either of which cases, a copy of such notice may be left at the dwelling house (if any) of the party, or other notorious place on the land through which the said road shall pass; *and further* each of the said commissioners, shall, before he proceed to exercise the trust reposed in him by this act take and subscribe an oath or affirmation in writing before one of the justices of the peace in and for the county where he shall be so appointed, that he "will without favor or partiality estimate and assess the damages which may be sustained by the owner or owners of the land or improvements which the said corporation may deem necessary to take and appropriate for said road;" and the said commissioners shall then proceed to view the premises; and having ascertained and determined the damages shall make an inquisition under their hands and seals, or under the hands and seals of any two of them, describing the land, and stating the amount of the damages (if any) which each or any of the owner or owners of any parcel of land used, or to be used for such road have sustained, or will sustain; which inquisition shall be acknowledged by the commissioners signing the same, before one of the judges aforesaid, and then filed, together with the affidavit aforesaid, in the office of the clerk of the county where such lands shall be situated within thirty days after such view shall be had and made by the said commissioners; and the said clerk shall, at the expence and costs of the said president directors and company enter the same of record in the book kept by him for recording of deeds; and the president and directors aforesaid paying to the said several owners of the said land the several sums so assessed and awarded by the said inquisition shall and may have and hold to them, their successors and assigns for ever the lands and tenements described therein: *Provided*

that, nothing in this act contained shall be construed to authorize the said president and directors to enter upon such land and thereon make the said road until they shall have paid or tendered the value of such land together with such damages as may be agreed upon or appraised according to the provisions of this act, *and provided also* that nothing in this act shall be construed to authorize the said president and directors to make said road through any garden without the consent of the owner if such garden shall have been cultivated as such at least ten years before such road shall be laid out; and the said president and directors shall pay to the judge or assistant justice who appoints the commissioners as aforesaid one dollar and fifty cents for his services, and to each of the said commissioners for every day necessarily attending to perform the duties required of them by this act two dollars and fifty cents.

VI. *And be it further enacted* That it shall and may be lawful to, and for the president directors and company of the said corporation, and their superintendants, artists, workmen, laborers and servants, with carts, waggons and other carriages, with their beasts of draft and burthen, and all necessary tools and implements, to enter upon the land contiguous or near to the said road first giving notice of such intention to the owners or occupants thereof, and doing as little damages thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damage which may be sustained by the owners or occupants of such ground or improvements, by appraisement in manner herein after directed, or upon a reasonable agreement of the owners or occupants if they can agree, or if they cannot agree, then upon an appraisement to be made upon the oath or affirmation of two, or if they disagree of three indifferent freeholders to be mutually chosen, or if the owners or occupants neglect or refuse to join in the choice, to be appointed by any justice of the peace of the county where such occupants reside, and on tender of the appraised value to take any stone, gravel, earth or sand being most conveniently situated and requisite for making or repairing the said road and turnpike, and to use the same in carrying on the said work, and the said president directors and company their servants and workmen shall be acquitted from and freed from responsibility for, or on account of any such injury—

Entering upon lands; damages.

VII. *And be it further enacted* That the said president directors and company shall cause a road to be laid out, not less than four rods, and, not exceeding six rods wide, sixteen feet at least of which shall be bedded with, wood, stone, gravel or other hard substance well compacted together, a sufficient depth to secure a good and solid foundation to the same, and the said road shall be faced with gravel, or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit, an even surface rising towards the middle by a gradual arch, and they shall during the continuance of this act, maintain, and keep the said road in good order from New Burgh aforesaid to Cochechton aforesaid—

Dimensions of road; how constructed.

VIII. *And be it further enacted*, That as soon as the said president, directors and company shall have completed the said road, or ten miles thereof from the village of New Burgh aforesaid, it shall be lawful for the said president and directors to give notice to the governor of this State for the time being, who shall thereupon forthwith nominate and appoint three commissioners to view the same, and report to him in writing, whether such part of the said road, is completed in a workmanlike manner, according to the true intent and meaning of this act; and if the report shall be in the affirmative, then it shall be the duty of the

Licence of governor upon completion of road.

governor, to whom they report, and he is hereby required by licence under his hand and the privy seal of this State to permit the said president and directors to erect and fix so many gates and turnpikes upon and across said road, as will be necessary and sufficient to collect the duties and tolls herein after granted to the said corporation from all persons travelling on, or using the same: *Provided* that such gates and turnpikes, except the first gate (which shall be at the distance of not less than six miles from the village of New Burgh) and the turnpike or gate on the bridge herein after mentioned, shall be erected at a distance not less than ten miles from each other.

Bridge
over the
Wallkill.

IX. *And be it further enacted*, That as soon as the said president directors and company shall have completed the bridge over the Wallkill where the said road shall pass the same, it shall and may be lawful for the said president directors and company, to erect a gate and turnpike upon and across said bridge, and to ask demand and receive of and from all and every person and persons who shall pass over and use the said bridge one half of the tolls and duties as herein after granted to the said corporation for every ten miles of said road: *Provided* those inhabitants who reside within five miles of the said bridge on either side shall be allowed to compound with the said president and directors by the year for passing and using said bridge—

Rates of
toll.

X. *And be it further enacted*, That as soon as the whole or any part of the said road shall be completed, and permission so as aforesaid granted to erect a gate or gates upon and across the same, it shall and may be lawful for the said president and directors to appoint toll gatherers to collect and receive of and from all and every person or persons using the said road at either of the gates (except the gate at and across the bridge aforesaid) the tolls and duties herein after mentioned and no more; that is to say, any number of miles not less than ten in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of sheep, hogs, cattle, horses or mules; as follows; for every score of sheep or hogs eight cents; for every score of cattle, horses or mules twenty cents; for every horse and rider, led or driven horse, five cents; for every sulkey, chair or chaise with one horsetwelve and a half cents; for every cart drawn with one horse six cents; for every chariot, coach, coachee or phaeton twenty five cents; for every stage, waggon or other four-wheel carriage drawn by two horses, mules or oxen twelve and a half cents, and three cents for every additional horse mule or ox; for every cart drawn by two oxen twelve and a half cents, and for every additional horse or ox, three cents; for every sleigh or sled six cents if drawn by two horses or oxen, and in like proportion if drawn by a greater or less number of horses or oxen; and it shall be lawful for any of the toll-gatherers, to stop and detain any person riding leading, or driving any horse, cattle, sheep or hogs, sulkey phaeton, chair, chaise, cart, waggon, sleigh or other carriage of burthen or pleasure, from passing through the gates or turnpikes untill they shall respectively have paid the toll as above specified: *Provided* that nothing in this act shall be construed to entitle the said corporation to demand toll of or from any person passing to or from public-worship on Sunday, or to, or from his common business on his farm, or to, or from any mill to which he may resort for the grinding of grain for his family use, or persons going to, or returning from a funeral.—

Mile stones
and guide
posts.

XI. *And be it further enacted*, That the said corporation shall cause mile stones to be erected, one for each mile of the said road, and on each stone shall be fairly and legibly inscribed or marked the distance

the said stone is from New Burgh; and shall also erect guide-posts at the intersection of all public roads leading into or from the said turnpike, on which shall be inscribed the name of the town in which such post stands, and also the name of the town or towns to which such intersecting road leads in the direction to which the hand on the same points; and the said corporation shall cause to be affixed at or over each gate or turnpike a printed list of the rates of toll which may be lawfully demanded—

XII. *And be it further enacted* That, if any person or persons shall break or throw down, deface or injure any of the mile stones or guide-posts so to be erected for the information of travellers, or shall dig up and attempt to spoil any part of the said road, or shall cut, break down or destroy any, or any part of the gates or turnpikes, or other works belonging to the said road, which shall be made or erected in pursuance of this act, or shall forcibly pass any or either of the said gates or turnpikes without having paid the legal toll at each gate or turnpike, such and every such person and persons, shall for every such offence or injury forfeit and pay a fine of twenty five dollars to be recovered by the treasurer of the said corporation to their use, in an action of debt with costs of suit in any court having cognizance of the same; and if any person or persons shall with his or their team or teams, carriage or horse turn out of the said road to pass any or either of the gates on ground adjacent thereto, and again enter on said road having passed the said gate or gates to avoid the payment of the toll due by this act such person or persons shall forfeit and pay a fine not exceeding five dollars to be recovered in like manner by the treasurer of the corporation to their use with costs of suit—

Destruction of stones and posts; forcibly passing toll-gates.

XIII. *And be it further enacted* That if any toll-gatherer shall unreasonably delay or hinder any traveller or passenger at any of the gates, or shall demand and receive more toll than is by this act established; he shall for every such offence forfeit and pay twenty five dollars to be recovered for the use of the person so unreasonably hindered or detained—

Illegal acts by toll gatherer.

XIV. *And be it further enacted* That the shares in the said turnpike road shall be taken deemed and considered to be personal estate, and be transferable in such manner as the said president and directors may direct.

Shares of stock deemed personal estate.

XV. *And be it further enacted* That it shall and may be lawful for the said president and directors at any time after the completion of said road, to lessen the rate of toll or duties, or to take away one or more of the gates and turnpikes, *provided* two thirds of the stockholders shall agree thereto.

Reduction of toll.

XVI. *And be it further enacted*, That the president and directors of the said corporation shall keep a just and fair account of all monies received, or to be received by the several collectors of toll on said road, and shall make and declare a dividend of the clear profits and income (all contingent costs and charges being first deducted) among the stockholders of the said corporation and on the first Tuesday in January and July in every year shall publish the half yearly dividend of the clear profits to be made among the stockholders, and the time and place when and where the same will be paid, and shall cause the same to be paid accordingly—

Accounts to be rendered to stockholders.

XVII. *And be it further enacted*, That the said president and directors, shall, within six months after the said road shall be completed lodge in the comptrollers office of this State an account of the expences thereof, and of the said bridge and the corporation shall annually exhibit

Id., to comptroller

to the comptroller a true account or dividend arising from said toll, with the annual disbursements on said road and bridge—

Assess-
ments on
stock-
holders.

XVIII. *And be it further enacted* That it shall and may be lawful for the said president and directors to call and demand from the stockholders respectively all such sums of money by them subscribed or to be subscribed, at such times and in such proportions as they shall see fit, under pain of forfeiture of their shares and all the previous payments thereon to the said president directors and company—

Increase in
amount of
shares, if
required.

XIX. *And be it further enacted* That after the amount of the said number of three thousand and two hundred shares, mentioned in and by the fourth section of this act, shall have been appropriated by the said president directors and company, for the purpose of making a good and sufficient road between the places aforesaid, and of erecting and finishing the said bridge, and the sum so appropriated shall be found insufficient to effect the same, it shall and may be lawful for the said president and directors, in order to complete the said road bridge and turnpikes, to increase or raise the funds of the said corporation, by adding a sum not exceeding ten dollars to each and every share in the whole stock, which sum so to be added shall in an equal ratio upon each and every share, to be collected and paid in manner aforesaid, subject on default of payment to the pains and forfeitures aforesaid—

Dissolu-
tion of cor-
poration,
power of.

XX. *And be it further enacted*, That the legislature may dissolve the said corporation when the income arising from the said toll shall have fully paid and compensated the said corporation for all monies they may have expended in purchasing making repairing and taking care of said road and bridge together with an interest thereon of fourteen per centum per annum, and thereupon the right interest and property of said road and bridge, shall be vested in the people of this State and be and remain at their disposal; *provided* that if the said corporation shall not commence their operations on said road within two years after the passing of this act, and shall not within eight years afterwards complete the same according to the intent and meaning of this act, then and in either case, this act shall cease and be void and of no effect.

CHAP. 37.

AN ACT to amend the act incorporating the Seneca Road Company.

PASSED the 20th of March, 1801.

Preamble.

WHEREAS it hath been represented to this legislature that it is impracticable for the directors of the said company to comply with all the requisitions of the act entitled "An act to establish a turnpike road company for improving the State road from the house of John House in the village of Utica in the county of Oneida to the village of Cayuga, and from thence to Canadarque in the county of Ontario" passed the 1st of April 1800. Therefore.

Dimension
of road
altered,
roadway.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the said road instead of being made as directed in and by the eighth section of the above recited act, shall be made in the manner following, to wit, the said road shall be six rods wide and cleared that width of all timber, except trees of ornament, in the center of which there shall be formed of the best materials the

nature of the ground will admit, a space of twenty eight feet in width into a gradual arch, the center of which shall not be less than twenty inchers higher than the outer edge or side thereof; and in all places where the nature of the ground shall render it necessary, at least eighteen feet of the said space shall be bedded with stone or wood so as to secure a solid foundation to the same, and at least twenty feet in width of the whole of the said space shall be faced with the best gravel or other hard substance which can be procured within half a mile of the place on the said road so to be gravelled, and in such manner as to make and secure as near as the materials will admit a firm even and durable surface; *and further* that no ascent shall be left on the said road of more than fourteen inches in every sixteen feet, and that proper water courses shall be made with durable sluices across the same where necessary so as to carry off all water from the sides of the said road; and the president and directors shall cause good and sufficient bridges not less than twenty two feet wide to be made on the line of the said road, except the bridge over the Cayuga lake.

And be it further enacted That the president and directors shall be and hereby are empowered to remove or cause to be removed any fences buildings or incumbrances dwelling houses barns and stores excepted— Removal of incumbrances in road. which are or may be erected within the limits of the said road after having given twenty days notice to any proprietor or occupant of any such land on which such incumbrances are or may be so erected. *Provided nevertheless* that where the president and directors shall or may have deviated from the State road so called, damages shall be allowed as in other cases provided in and by the above recited act.

And be it further enacted That no person or persons shall draw or transport on the said road any timber loggs or wood for fuel, or draw thereon ploughs so as to tear or break up the facing of the said road or otherwise injure the same; nor shall any person or persons be permitted to break down or fill up the water courses on the sides of the said road so as to obstruct the free passage of the water. And where it may be necessary for the inhabitants living contiguous to the said road to cross the water courses with their carriages or teams, they shall erect small bridges over the same in such manner as to preserve a free passage for the water, and any person or persons who shall offend in any of the said particulars and be thereof convicted shall forfeit and pay for every such offence the sum of three dollars to the said president and directors for the use of the said company, to be recovered in any court having cognizance thereof. Injury to road; obstruction of water-courses.

And be it further enacted That the president and directors shall and they are hereby empowered where they may deem it necessary for the public good, to deviate from the present State road, any thing in the above recited act to the contrary notwithstanding. *Provided always*, that where such deviation shall be carried over the property or possession of any person through which the present State road now leads and it shall not be necessary to continue the present road as a public highway the value of the land included therein shall be ascertained by the same persons authorised to assess the damages occasioned by such deviation and be set off against the said last mentioned damages. *And provided also* that the said president and directors shall continue said road as near to the present State road as the nature of the country will admit of. Change in route of road.

And be it further enacted That gates may be erected on the said road at a less distance than ten miles of each other. *Provided* that the toll be proportioned according to the ratio for the same distance allowed to Gates, distance apart.

be collected in and by the above recited act, any thing contained therein to the contrary notwithstanding.

Increase in stock. *And be it further enacted,* That three hundred and fifty shares at the rate of fifty dollars each shall be added to the capital stock of the said company.

Additional directors. *And be it further enacted* That it shall be lawful for the stockholders of the said corporation to choose in the manner directed by law, four additional directors, who shall be stockholders; and it shall be lawful for the stockholders to vote at said election in person or by proxy.

CHAP. 38.

AN ACT for the relief of Clement Sadleir.

PASSED the 20th of March, 1801.

Preamble. WHEREAS, the commissioners of forfeitures for the western district, did on the eighteenth day of November, one thousand seven hundred and eighty seven, sell and convey unto Robert McWilliams lot number nineteen in the great Kayaderosseras patent, estimated at one hundred and forty acres of land more or less, for the consideration of one thousand pounds, which became forfeited by the attainder of Sir John Johnson to the people of this State, and the surveyor general hath caused the said lot to be surveyed according to the claims and possessions of the proprietors of the surrounding lands, and on such survey the said lot appeared to contain only forty seven and an half acres of land, which leaves a deficiency in the estimated quantity of land mentioned in the said conveyance equal to ninety two and an half acres. *And whereas* the said Robert McWilliams did by indenture, without any covenant of warranty sell and convey the said lot of land to one John Murray: *And whereas* the said John Murray hath by a like indenture sold and conveyed the said lot of land to one Clement Sadleir. *And whereas* the said Clement Sadleir hath with the knowledge of the attorney general of this State, commenced and brought to trial in the supreme court of this State, actions against the occupants of the said ninety two and an an half acres of land, for the recovery of the same, in which he hath failed to recover the same or any part thereof; therefore,

Appropriation to Clement Sadlier. *Be it enacted, by the People of the State of New York, represented in Senate and Assembly,* That the treasurer of this State on the order of the comptroller be and he is hereby required to pay to the said Clement Sadlier, or to his legal representatives, the sum of one thousand six hundred and fifty one dollars, and seventy eight cents, with the interest, at six per cent per annum, for the same from the eighteenth day of November, one thousand seven hundred, and eighty seven to the time of payment, out of any monies in the treasury not otherwise appropriated.

Id. *And be it further enacted,* That the treasurer of this State, on the order of the comptroller, be and he is hereby required to pay to the said Clement Sadleir, out of any money in the treasury not otherwise appropriated the sum of two hundred and eighty dollars, and four cents, being the amount of the costs, and charges of him the said Clement Sadlier, necessarily expended in prosecuting his actions for the recovery of the said ninety two and an half acres of land: On condition that the said Clement Sadleir, shall on receiving the said several sums of

money release to the people of this State all interest, claim and demand he may have under the conveyance aforesaid, to the said ninety two and an half acres of land.

CHAP. 39.

AN ACT to enable the mayor, recorder and aldermen of the city of New York to order the raising monies by tax for the purposes therein mentioned.

PASSED the 20th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the mayor, recorder and aldermen of the city of New York, or the major part of them, of whom the mayor or recorder shall be one, be and they are hereby empowered as soon as conveniently may be after the first day of May next to order the raising a sum not exceeding forty eight thousand dollars by a tax on the estates, real and personal of the freeholders and inhabitants within the said city and county of New York, to be applied to the support and maintenance of the poor of the said city and county; the support and repairs of the bridewell, the support and maintenance of criminal prisoners, the making, repairing, regulating and improving the public roads and streets and the defraying of other contingent expences arising within and properly chargeable to the said city and county—and also a further sum, not exceeding thirty two thousand dollars by a tax on the estates real and personal, of the freeholders and inhabitants within the said city to the southward of a line beginning at the outlet of the meadow of Anthony Lispenard into Hudson's river, thence extending to and along the north side of the dwelling house late of Nicholas Bayard deceased thence along the middle of William street to and across the Bowery lane to Bullock street to the East river, to be applied to the payment of so many watchmen, as the mayor, aldermen and commonalty of the said city, in common council convened, shall from time to time determine to be necessary for guarding the said city; to the purchase of oil, providing lamps and repairing and attending those which now are, or hereafter may be erected in the said city, to the cleaning repairing and making the public wells and pumps in the said city, and to defray the other contingent expences arising and properly chargeable to that part of the said city which lies to the southward of the line aforesaid as the said mayor, aldermen and commonalty in common council convened may from time to time direct, and for supplying the deficiencies of former taxes upon the same part of the said city owing to insolvencies, and fees of collection not heretofore provided for.

Tax levy in New York city.

And be it further enacted, That the said several sums of money shall be assessed and collected in the manner directed by the act entitled "An act for the assessment and collection of taxes" and be collected in one payment, and paid into the hands of the treasurer or chamberlain of the said city, at such time after the said first day of May, as the said mayor, recorder and aldermen or the major part of them, of whom the mayor or recorder shall be one, shall direct or appoint.

Mode of assessment and collection.

And be it further enacted, That it shall be lawful for the collectors of the first, fourth, fifth and sixth ward of the said city to retain in their hands, four cents on each dollar, and for the collector of the seventh ward to retain in his hands five cents on each dollar, and the collectors

Fees of collectors and chamberlain.

of the several other wards of the said city to retain in their hands three cents on each dollar by them collected and no more for their trouble in collecting and paying to the chamberlain of the said city such sum of money as shall be raised by virtue of this act, and that it shall be lawful for the said chamberlain to retain in his hands seven mills for each dollar and no more for his trouble in receiving and paying out the said monies.

CHAP. 40.

AN ACT to establish the courts of common pleas and general sessions of the peace in the county of Green.

PASSED the 20th of March, 1801.

Where
courts to
be held.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That hereafter the said courts of common pleas and general sessions of the peace, in and for said county of Green, shall be held at the academy in the town of Catskill, and provided the proprietors of said academy shall on or before the first day of June next, grant and convey to the supervisors of the county of Green and their successors forever, such part of, and privileges in the said building, and ground on which it stands as shall be necessary for conveniently improving the same for a court house, then the said academy is hereby declared to be the court house of the county of Green.

Tax levy
for build-
ing a jail.

And be it further enacted, That the supervisors of the county of Green, at their meeting in May next, be and they are hereby authorised and required, to direct the sum of one thousand five hundred dollars, and the charges for levying and collecting the same, to be assessed, levied and collected on the freeholders and inhabitants of the said county, in the manner directed by the "act for the assessment and collection of taxes," for the purpose of building a gaol in said county, within fifty rods from the academy in the town of Catskill, at such place as the judges of the court of common pleas of said county, or a majority of them, shall appoint; and that Samuel Haight, George Hale, Caleb Benton, Leonard Bronck, and Stephen Simmons be commissioners, who, or any three of them, or in case of death, the survivors or survivor of them, shall cause the said gaol to be built, and superintend the erection thereof.

How mon-
ey paid
out.

And be it further enacted, That the treasurer of the said county shall pay over the money so to be collected as the same shall come into his hands to the said commissioners, or to some one of them, and the commissioners or commissioner who shall superintend the building the said gaol, shall account with the board of supervisors for the expenditures of the said money when thereunto required.

Building
when
erected to
be jail of
the county.

And be it further enacted, That the gaol when completed, shall be the gaol of the said county, and that as soon as the sheriff of the said county shall deem the gaol sufficiently finished for the keeping of the prisoners, it shall be lawful for him, and he is hereby required to remove them to the said gaol, and such removal shall in no manner be construed an escape.

Writs re-
turnable
at place
assigned

And be it further enacted. That all writs and process returnable to the said courts of common pleas and general sessions of the peace, at the next May term of the said court, shall be returned at the academy in

the town of Catskill, instead of the house of John R. Vandenberg in the town of Coxsackie; and all persons bound by bail bonds or recognizances to appear at the said May term, shall be and hereby are required to appear at the said academy; any thing in the act entitled "An act to erect part of the counties of Ulster and Albany into a separate county" to the contrary thereof notwithstanding.

for sitting
of the
courts.

CHAP. 41.

AN ACT to continue the treasurer of this State in office.

PASSED the 20th of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That Robert McClallen shall be and hereby is continued in office as treasurer of this State, until sixty days after the rising of the legislature, at their next meeting after the first day of January next.

Robert
McClallen
continued
as treas-
urer.

And be it further enacted, That the said Robert McClallen shall be allowed to retain as a compensation for his services and expences including clerk hire, office hire and stationary the sum of sixteen hundred dollars a year in quarterly payments for which the comptroller shall give his warrant as the same shall become due.

Compensa-
tion.

CHAP. 42.

AN ACT for the relief of David Hunt.

PASSED the 20th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the commissioners of the land office, be and they are hereby authorised and required, to grant letters patent to the said David Hunt, for a certain messuage, tenement, and lot of ground situate in the city of New York, which was sold to him by order of the said commissioners, on the twenty fifth day of February, one thousand eight hundred, provided the said David Hunt shall previously and within thirty days next after the passing of this act, pay to the treasurer of this State, for the use of the people of this State, the sum of three thousand four hundred and twenty nine dollars.

Letters
patent to
issue to
David
Hunt.

CHAP. 43.

AN ACT, concerning coroners.

PASSED the 21st of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That in every county of this State, competent men shall be appointed as coroners, and it shall be the duty of every coroner to go to the places, where any persons be slain, or suddenly dead, or

Coroners,
appoint-
ment of;
duty.

wounded, or where houses are broken open, or treasure is said to be found, and forthwith to command twenty four good and lawful men of his county, to appear before him at such place therein, as he shall appoint, and upon their oath, or the oath of any twelve or more of them, and upon view of the body of any person slain, or suddenly dead, and the proof of witnesses, to inquire how, and in what manner, and when, and where, such person was slain, or died, and who such person was, and of all the circumstances attending such death, and who were guilty thereof, either as principal or accessory, and in what manner, and to take and commit every one so found guilty, and also every one suspected of the death of any person, or of doing hurt to any person, so as to endanger life, to the gaol of such county; and to make the like inquiry of persons who shall die in prison, or be killed by misfortune, and also of treasure found, and who were the finders, or suspected thereof, and to attach such finders, and bind them with at least two sufficient sureties, to appear before the next justices of oyer and terminer and gaol delivery in such county, to answer the premises: All which matters shall be enrolled by the coroners, and all coroners shall deliver their inquisitions, and rolls, to such justices, in the respective counties, who shall proceed thereon against the offenders if they be in gaol, and if not, such justices shall deliver the same, into the supreme court, there to be proceeded upon according to law.

Testimony
to be re-
duced to
writing.

And be it further enacted, That every coroner, upon any inquisition found before him, whereby any person shall be indicted of murder or manslaughter, or as accessory thereto before the fact, shall put in writing the effect of the evidence given to the jury before him, and bind the witnesses to appear, and testify, against such person, at the next court of oyer, and terminer, and gaol delivery to be holden in the same county, and shall certify the recognizances taken by him for that purpose, together with the said inquisition and evidence to such court; and in case any coroner shall neglect to perform any duty required of him by this act, and be thereof convicted, before any justices of oyer, and terminer, and gaol delivery in such county, he shall be fined at the discretion of such justices.

Returns
valid if
signed by
one cor-
oner.

And be it further enacted, That any return made, and signed by any one of the coroners, of any county in this State, to any future process which shall issue from, and out of any court of record in this State, directed to the coroners of such county generally, shall be as good, and valid in law as if such return was made, and signed by all the coroners of such county. But the act, or return of any one, or more of the coroners, shall in no degree prejudice the rest.

CHAP. 44.

AN ACT concerning promissory notes.

PASSED the 21st of March, 1801.

Promis-
sory notes
to be ne-
gotiable.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That all notes in writing made and signed by any person, or by a factor or agent of any merchant or trader usually intrusted therewith, whereby such person, or any merchant or trader by such factor or agent shall promise to pay to any other person, body politic or corporate, his or their order, or unto bearer, any sum of money

therein mentioned, shall by virtue thereof, be taken and construed to be due and payable as therein expressed, and shall have the same effect and be negotiable in like manner as inland bills of exchange according to the custom of merchants, and that the payees or indorsees of every such note, payable to them or their order, shall and may maintain their action for such sum of money against the makers and indorsers of the same respectively in like manner as in cases of inland bills of exchange, and not otherwise.

CHAP. 45.

AN ACT to regulate the exportation of flaxseed, and the compensation to measurers of grain.

PASSED the 21st of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That no flaxseed shall be exported from this State to Ireland or Scotland, but what shall be well cleaned, and put in casks of two sizes only, one of which shall be of the following dimensions, vizt. two feet nine inches long and twenty four inches diameter in each head, and made as nearly streight as possible, which shall contain seven bushels, and shall be made of oak, and the heads of pine or oak, with three hoops on each head, and three hoops on each bilge, and nailed with at least three nails in each head hoop, and three nails in each quarter hoop, with a good lining hoop on each head: The other size shall be made of like materials, and shall contain three and an half bushels, with the same number of hoops and shall be nailed in the same manner; and on each cask shall be branded the name of the city or county where cleaned, with the initial letter of the christian and the sirname at full length of the owner or person who cleaned the same.

Regulations concerning the cleaning and packing of flax seed for exportation.

And be it further enacted That if any person shall ship on board of any ship or vessel, for exportation to Ireland or Scotland, any flax seed which hath not been cleaned, marked and branded as herein before directed, or in any other casks, than such as are before mentioned, such person so offending shall forfeit and pay for every cask so shipped on board the sum of one dollar and twenty five cents; and the master or commander of every ship or vessel who shall receive on board of any ship or vessel for exportation as aforesaid, any flaxseed not cleaned marked and branded as aforesaid, or in any other cask than such as are before mentioned, shall forfeit and pay the sum of sixty two and an half cents for every cask so taken on board.

Penalty for illegal shipment.

And be it further enacted That the several measurers within this State shall be entitled to receive for measuring flaxseed, salt, wheat, rye, corn, buckwheat, or any other article commonly sold by the bushel three fourth parts of a cent per bushel and no more; and for all coal measured at and after the rate of twenty five cents for every chaldron and no more, the one half to be paid by the buyer, and the other half by the seller.

Fees of measurers.

CHAP. 46.

AN ACT, to prevent excessive and deceitful gaming.

PASSED the 21st of March, 1801.

Securities
given for
gambling
debts de-
clared void.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That all notes, bills, bonds, judgments, mortgages, or other securities or conveyances whatsoever given or executed by any person, where the whole, or any part of the consideration of the same, shall be for any money or other valuable thing won by playing at any game whatsoever; or by betting on the sides or hands of such as do play at any game; or for the repaying any money knowingly lent or advanced for such gaming or betting as aforesaid, or lent or advanced at the time and place of such play, to any person so gaming or betting as aforesaid; or who shall, during such play, so play or bet, shall be void. And where such mortgages, securities or other conveyances, shall be of lands, tenements, or hereditaments, or shall affect the same, such mortgages, securities or other conveyances shall enure for the sole use and benefit of such person, as would be entitled to such lands, tenements or hereditaments, in case the grantor thereof, or other person so incumbering the same, had been dead; and as if such mortgages, securities or other conveyances, had been made to such person, so to be entitled as aforesaid; and all grants and conveyances to be made for preventing such lands, tenements, or hereditaments from coming to, or devolving upon the persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void.

Sums of
over
twenty-five
dollars lost
in gam-
bling may
be recov-
ered.

And be it further enacted, That every person who shall at any time or sitting, by playing at any game; or by betting on the sides or hands of such as do play at any game, lose to any one or more persons so playing or betting, in the whole the sum of twenty five dollars in money or any other thing of the value of twenty five dollars, or in money and any other thing to such amount, and shall pay or deliver the same, or any part thereof, it shall be lawful for such person, within three months next thereafter, to sue for and recover the money or value of the things so lost and paid or delivered, or any part thereof, from the winner, with costs of suit, by action of debt founded on this act, in any court of record having cognizance of the same; in which action it shall be sufficient for the plaintiff to alledge in his declaration, that the defendant is indebted to the plaintiff, in the monies so lost, and paid, or in the amount of the value of the things so lost, and delivered, for so much money had and received by such defendant to the plaintiff's use, without setting forth the special matter: And in case the person who shall lose such money, or other thing as aforesaid, shall not within the time aforesaid, bona fide, and without collusion, sue and prosecute, with effect, for the money or other things so by him lost and paid, or delivered, it shall be lawful for any person, by any such action, to sue for and recover the same, and treble the amount or value thereof, with costs of suit against such winner: The one moiety of such forfeiture, when recovered, to be paid to the overseers of the poor of the city or town in which such offence shall be committed, and the other moiety to the person who will sue for the same.

Defendant
compelled
to answer
under oath

And be it further enacted, That every person who, by virtue of this act, shall be liable to be sued as aforesaid, shall be compellable to answer upon oath, such bill as shall be exhibited in the court of chancery

against him, for discovering the money, or other things so won at play, contrary to the true intent and meaning of this act. And it shall be lawful for such court, in which such bill shall be exhibited, to proceed and decree thereupon, and enforce such decree, in the same manner as is used in other causes in such court.

And be it further enacted, That upon the discovery and repayment or re-delivery of the money or other things so to be discovered, and repaid, or redelivered, the person who shall so discover and repay, or redeliver the same, shall be discharged from any further or other punishment, forfeiture or penalty, which he may have incurred by the playing for or winning such money or other thing, so discovered and repaid, or redelivered.

Person re-delivering sum lost exempted from further penalty.

And be it further enacted, That if any person shall by any fraud, or unlawful device or ill practice whatsoever, in playing at any game, or by bearing a share in the wagers, or adventures in, or betting on the sides or hands of such as shall play as aforesaid, win, or acquire to him, or to any other, any sum of money, or other valuable thing whatsoever; or shall at any one time or sitting, win of any one or more persons, above the sum or value of twenty five dollars, and be convicted of any of the said offences upon indictment or information, every such person shall forfeit five times the value of the money or other things so won as aforesaid; and in case of such ill practice as aforesaid, the person so winning as aforesaid, shall be deemed infamous, and shall be imprisoned for six calender months, and such penalty may be recovered by any person who shall sue for the same in manner aforesaid; and when recovered shall be appropriated as herein above directed.

Forfeiture for fraud in gambling or for winning over twenty-five dollars at one sitting.

And be it further enacted, That if any person shall win or lose at play, or by betting at any time the sum or value of twenty five dollars, or upwards; or within the space of twenty four hours the sum or value of fifty dollars, such person shall be liable to be indicted for such offence, at any time within one year after it is committed; and being thereof legally convicted, shall be fined five times the value of the sum so lost or won; which fine, (after such charges as the court shall judge reasonable to allow to the prosecutors and witnesses out of the same,) shall be paid to the overseers of the poor of the city or town where such offence shall be committed, for the use of the poor thereof.

Indictment

And be it further enacted, That if any person so offending shall discover any other person so offending, so that such person be thereupon convicted, the person so discovering shall be discharged from all penalties by reason of any such offence, if such person so discovering hath not been before convicted thereof, and he shall be admitted as an evidence to prove the same.

Person informing discharged from penalty.

And be it further enacted, That no person, other than the parties in the cause, shall be incapacitated from being a witness, touching any offence committed against this act, by reason of having played, betted, or staked at any game prohibited by this act.

Witnesses.

And be it further enacted, That it shall be lawful for any two or more justices of the peace, in any city or county within this State, to cause to come before them, every person within their respective cities or counties, whom they shall have just cause to suspect to have no visible estate, profession, or calling to maintain themselves by, but who do for the most part support themselves by gaming; and if every such person shall not make it appear to such justices, that the principal part of his expences are not maintained by gaming, then such justices shall require of him sufficient sureties for his good behaviour, for the space of twelve months; and in default of his finding such sureties, to commit him to the com-

Common gamblers, proceedings against; bound to good behavior.

mon gaol of the city or county, there to remain until he shall find such sureties.

Forfeiture
of bonds.

And be it further enacted, That if any such person so finding sureties shall during the time for which he shall be so bound to the good behaviour, at any one time or sitting, play or bet for any money or other thing, exceeding in the whole the sum or value of two dollars and fifty cents, then such playing shall be deemed to be a breach of his good behaviour, and a forfeiture of the recognizance given for the same.

CHAP. 47.

AN ACT for the more easy pleading in certain suits.

PASSED the 21st of March, 1801.

Actions
against
certain
public
officers,
pleading
in.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That if any action upon the case, trespass, battery, or false imprisonment, be brought against any sheriff, coroner, justice of the peace, mayor, recorder or alderman, bailiff, constable, marshal, collector or overseer of the poor and their deputies or any of them, or any other person who in their aid or assistance or by commandment, do any thing touching his or their office, for or concerning any matter or thing by them or any of them done by virtue of their office, the said action shall be laid within the county where the trespass or fact be done and committed, and not elsewhere. And it shall be lawful for every person aforesaid to plead thereunto the general issue, and to give the special matter in evidence; and if upon the trial of any such action the plaintiff shall not prove that the cause of his action arose within the county wherein such action is laid, in every such case the jury which shall try the same shall find the defendants not guilty, without having any regard to any evidence given by the plaintiff touching the cause for which such action is brought: And if the verdict shall pass with the defendants, or the plaintiff become non suit, or suffer any discontinuance, in every such case the court in which the action shall be brought shall by virtue of this act allow unto the defendant or defendants, his or their double costs, which he or they shall have sustained by reason of his or their wrongful vexation in defence of the said action, for which the said defendant or defendants shall have like remedy as in other cases, where costs are given to defendants.

Actions
for taking
of distress,
etc.

And be it further enacted, That if any action shall be brought against any person for taking of any distress making any sale or any thing done by authority of any statute of this State, the defendant in every such action may plead not guilty or otherwise make avowry, cognizance or justification for the taking of such distress, making of sale or other thing done by virtue of such statute, alledging therein that such distress sale trespass or other thing whereof the plaintiff complains, was done by authority of such statute, without expressing any other matter or circumstance contained in such statute; to which avowry, cognizance or justification, the plaintiff shall be admitted to reply that the defendant did take the said distress, make the said sale, or did any other act or trespass supposed in his declaration of his own wrong without any such cause alledged by the said defendant, whereupon the issue in every such action shall be joined to be tried by a jury: And upon the trial of that issue, the whole matter may be given in evidence by both parties; and

after such issue tried for the defendant or nonsuit of the plaintiff after appearance, the same defendant shall recover treble damages with his costs, which damages shall be assessed by the same jury which shall try the issue, or upon a writ to inquire of the damages as the case may require.

And be it further enacted, That in every action to be brought in the name of the people of this State, or on their behalf on any contract or agreement whatsoever, sealed or not sealed it shall be sufficient to state or declare that the defendant or ancestor, testator or intestate as the case may be, was indebted to the people of this State in the sum demanded by reason of the breach of such contract or agreement according to the nature of such action, whereby an action hath accrued to the people of this State, to demand and have the sum so demanded; and that the particular grounds of such demand and the special matter may be given in evidence upon such declaration, and in any such action, any part of the sum so declared for as far as the testimony will warrant may be recovered. And in all actions to be brought in the name or on the behalf of the people of this State for the recovery of any debt appertaining or accruing to the people of this State, by reason of any outlawry, forfeiture, gift of the party or by any other collateral way or means, it shall be sufficient to alledge generally that the party to whom the said debt was owing or belonged did on such a day and year give the same to the people of this State, or was outlawed or did commit some act by reason whereof the said debt did accrue to the people of this State, and the special matter may be given in evidence upon such declaration. *And further* that in all cases where the people of this State shall be interested in the event of any suit, the same shall be defended by or under the direction of the attorney general, at the expence of this State, and he may employ such counsel to assist in and concerning every such defence, as the person administering the government of this State shall from time to time deem necessary.

Actions on behalf of the people of the State.

CHAP. 48.

AN ACT to prevent and punish rapes and the forcible taking of women.

PASSED the 21st of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That if any person shall unlawfully and carnally know any woman child under the age of ten years, every such unlawful and carnal knowledge shall be adjudge a rape and felony. And if any person shall by force ravish any woman child of the age of ten years or upwards, or any other woman, it shall be adjudged felony.

Assault on child under ten years of age declared rape.

And be it further enacted, That if any person shall take any woman against her will, unlawfully, and marry her, or cause her to be married to any other person by the assent of such misdoer, or defiled, every such taking, and the procuring and abetting the same shall be felony, and punishable as in cases of rape. And every taker, procurer, and abettor to the same, shall be adjudged a principal felon; *provided however,* That nothing in this section contained shall extend to any person taking any woman, only claiming her as his ward or bond woman.

Assaults on women.

Abettors of rape.

CHAP. 49.

AN ACT, for relief against absconding, and absent debtors.

PASSED the 21st of March, 1801.

Warrants
of attach-
ment
against the
property
of abscond-
ing debtors

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That whenever, any person, other than those, who may be liable to be declared bankrupts, under the laws of the United States, being indebted within this State, shall either secretly depart from, or keep concealed within the same, any one creditor, or joint company, to whom such person, is indebted in the sum of one hundred dollars, or upwards, or any two, to whom he is indebted in the sum of one hundred and fifty dollars, or upwards, or any three, to whom he is indebted in the sum of two hundred dollars, or upwards, over and above all discounts, may apply to a judge of the supreme court, and make oath, or affirmation in writing, that such debtor, is indebted to him or them, in one of the sums before mentioned, or in any sum exceeding the same, over and above all discounts, and that he or they do verily believe that such debtor, is departed this State or concealed within it, with intent to defraud his creditors, of their just dues, or to avoid being arrested by the ordinary process of law: Which departure, or concealment shall also be proved to the satisfaction of such judge, by two witnesses: And on such proof, the judge shall issue his warrant, to the sheriff of any one, or more of the cities, and counties of this State, commanding him to attach, and safely keep all the estate, real and personal of such debtor, within his county, with all books of account, vouchers and papers relating thereto; which warrant the sheriff shall execute, and with the assistance of two substantial freeholders, forthwith make a true inventory of all such estate, so, attached, and return the same, signed by himself, and the two freeholders to the judge who issued the warrant.

Public
notice to
be given of
attach-
ments.

And be it further enacted, That such judge, shall immediately thereafter order notice to be given in two public newspapers of this State, one of which to be printed in the city of New York, and the other by the printer to the State, that on application as aforesaid, he had directed all the estate of such debtor to be seized, and that unless he return and discharge his debts, within three months after such notice, the estate will be sold for the payment of his debts.

Sale of
perishable
goods.

And be it further enacted, That in case any sheriff shall seize any perishable goods, the judge who issued the warrant may, in his discretion, order such goods to be sold, and the monies arising therefrom, to be paid to the trustees, to be appointed in pursuance of this act.

Proceed-
ings where
property is
claimed by
others.

And be it further enacted, That if any sheriff shall ignorantly seize any goods, or effects which shall be claimed by any person as his property, such sheriff may summon and swear a jury to try the property thereof, and if the jury by inquisition find the property of the same, to be in the person so claiming, or in any other person than the said debtor, the sheriff shall forthwith deliver the goods or effects to the person in whom the property thereof shall be so found, or to his authorized agent, and shall not be liable to prosecution for such seizure, and all reasonable charges, arising by the sale of such perishable goods, or by the said inquest, if it find the property not to be in such debtor, shall be allowed and certified by the judge issuing the warrant, and paid out of the estate of the said debtor, but if the

property of the goods or effects so claimed be by such inquisition found in the said debtor, then all costs and charges arising by such claim and inquisition, or either of them, shall be paid by the person who made the claim, or procured or occasioned the said inquisition.

And be it further enacted, That if any person indebted to such absconding or concealed debtor, or having the possession of any of his property, shall after the first public notice aforesaid, pay any debt, or deliver any such property to the absconding or concealed debtor, his attorney or assigns, the person so paying or delivering shall be deemed to have done it fraudulently, and shall answer for the value thereof to the trustees to be appointed by virtue of this act, or if sued for the same, after the first public notice aforesaid by the absconding or concealed debtor, he may plead the general issue, and give this act and the special matter in evidence.

Payments not to be made to or for account of absconding debtors after attachment.

And be it further enacted, That all sales of the estate real or personal of such absconding, or concealed debtor, and all assignments of any bill, note, or other chose in action belonging to him, made after the first public notice aforesaid, shall be null and void.

Sales by debtor void.

And be it further enacted, That if such debtor, shall before the appointment of trustees hereinafter mentioned, by himself or attorney, by petition to the said judge, offer to prove to the court of which he is a judge, in open court, that he is a resident within this State, and was not within thirty days before issuing the warrant, nor at any time after, nor is then absconding, or concealing and thereby pray, that the same may be heard, at the next term of such court, and shall at the same time execute and deliver to the creditor, or creditors, who procured the warrant, a bond with sufficient security, to be approved of by the said judge, in the sum of one hundred dollars, with a condition that such debtor, shall prove to such court, at the then next term, the said facts offered in such petition, to be proved, and which are to be stated in the said condition, the said judge shall then report his proceedings in the premises to the said court, at the next term thereof, which court is hereby authorized to compel the parties and their witnesses, to come into court, and hear the proofs, and allegations of the parties in a summary way, and to determine whether the matters in such petition have been satisfactorily proved. And if such court shall determine that they have, they shall then grant a supersedeas, to such warrant, or warrants, and such debtor shall recover his costs, to be taxed by the said court, in open court, of the creditor, or creditors who procured the warrant, or warrants to be issued; but if the court shall determine the matters, in such petition not satisfactorily proved, then the obligee, or obligees in such bond, may by suit recover the penalty thereof with costs, the one moiety of such penalty to the use of the obligee, or his legal representatives, and the other moiety thereof when recovered and received, to be paid to the trustees appointed by virtue of this act, to be by them distributed in like manner, as other monies which may come to their hands as trustees, by virtue of this act.

How attachment may be vacated on application of debtor.

And be it further enacted, That if such debtor do not return within three months, next after such notice, and satisfy his creditors, not having presented the petition, or given the bond as aforesaid; or having done the same, and the court shall have adjudged the matters in such petition not satisfactorily proved, and shall have refused to grant a supersedeas to such warrant, that then in either of the said cases, the judge who issued the warrant, or any other judge of the same court, shall nominate and appoint under his hand and seal, three or more fit persons to be trustees, for all the creditors of such debtor, which trust-

Trustees for the creditors.

tees, shall, before they proceed, take an oath, or affirmation, to be administered by the judge appointing them, well and truly to execute the trust, by that appointment reposed in them, according to the best of their skill, and understanding.

Notice to be published by trustees.

And be it further enacted, That the said trustees, or any two of them, shall as soon as may be thereafter, give notice in two of the news papers, printed in this State, one of which to be printed in the city of New York, and the other by the printer to the State, of their appointment, and require all persons indebted to such absconding or concealed debtor, by a day certain, to be mentioned in the notice, to pay all debts, and sums of money, which they owe to such debtor, and deliver all property of such debtor, which they have in possession, to the said trustees, and also to desire all creditors of such debtor, by a day to be mentioned in their notice, to deliver to them or one of them, their respective accounts and demands against such debtor.

Trustees to take all of debtor's property into possession.

And be it further enacted, That each of the said trustees, may take into their hands all the estate of such debtor, whether attached as aforesaid or afterwards discovered by them, and all books, vouchers, and papers relating to the same, and the said trustees from their appointment shall be deemed vested with all the estate of such debtor, and shall be capable to sue for, and recover the same, and all debts and things in action, due or belonging to such debtor, and all the estate attached as aforesaid shall be by the sheriff who took the same, delivered over to the said trustees, and the trustees or any two of them, shall sell at public vendue, after fourteen days previous notice of the time, and place, all the estate, real and personal, of such debtor, as shall come to their hands, and deeds, and bills of sale for the same make and execute, which deeds and bills of sale shall be as valid, as if made by such debtor, before the first public notice aforesaid.

Concealment of debtor's property.

And be it further enacted, That if any person indebted to the said absconding or concealed debtor, or having the custody of any property belonging to him, shall conceal the same, and not deliver a just account thereof to the said trustees, or one of them, by the day, for that purpose appointed, the person concealing and not delivering as aforesaid, shall forfeit double the sum of the debt, or value of the property so concealed or not accounted for, to be recovered by action by the said trustees, and applied as hereinafter directed. And the court before whom such action shall be brought, is hereby empowered to compel the person, so concealing and not accounting as aforesaid, to appear before it, and be examined on oath, touching the premises, and to commit such person, to prison if he refuse to be examined, or being examined, refuse to answer satisfactorily to such court.

Proceedings by trustees to discover property; penalty for witness refusing to answer.

And be it further enacted, That the said trustees, may apply to any justice of the peace, who in such case is required to grant a warrant, commanding the said absconding, or concealed debtor, his wife, and every other person known, or suspected to detain any part of his estate, or to be indebted to it, or to know any thing concerning the concealment, or embezzlement thereof, to be brought before him, at such place as he and the trustees shall appoint, where the said justice or in his absence any other justice, to be requested by the said trustees shall be present, at which meeting either the said justice, or the said trustees, or both, may examine on oath to be administered by the justice, every person so brought before them, on the said warrant, touching all matters relative to the said debtor, his dealings, and his estate, and reduce the examination to writing, which the said person is hereby required to sign; and if the said person shall refuse to be sworn, or to answer, or shall not

answer to the satisfaction of the said justice, all lawful questions to be put by the said justice, and trustees, or the major part of them present, as well by word of mouth, as by interrogatories in writing, or shall refuse to sign the examination, not having any reasonable objection, either to the wording thereof or otherwise, to be allowed by the said justice, the said justice shall then by warrant, commit such person to prison, there to remain without bail, until he shall submit to do what shall be required of him as aforesaid. *Provided always*, that the said warrant of commitment, shall specify the particular default of such person, and if it be, in not answering any question, such question shall be specified in the warrant: *And provided also*, that if such person shall bring any habeas corpus, to be discharged from imprisonment, and on the return thereof, there shall appear any insufficiency in the form of the warrant, then the court, or judge before whom such person shall be brought, by the said habeas corpus, shall by order, or warrant, recommit him, unless it shall be made to appear, that he hath answered all lawful questions put to him, or had sufficient reason for refusing to sign the examination, as the case may be, and if such person be wilfully suffered to escape from prison, the gaoler or keeper, wilfully suffering the same, and being thereof convicted on indictment or information, shall forfeit to the trustees, a sum equal to all such sums, as shall be owing to the creditor, or creditors of such absconding, or concealed debtor, *provided* the same does not exceed two thousand five hundred dollars, to be sued for, and by them recovered, and distributed as herein after directed.

And be it further enacted, That the survivors or survivor of the said trustees, shall have all the powers given to the said trustees by this act, and that if any person so to be examined, shall wilfully and knowingly swear or affirm falsely, he shall be liable to the pains and penalties of wilful and corrupt perjury. Survivors of trustees may act; perjury.

And be it further enacted, That any person, other than those who have the effects in possession, who shall discover any secreted effects of such debtor, so that they be recovered by the said trustees, shall be entitled to ten per cent. on the value of the effects, so discovered, to be paid by the trustees out of the estate of the said debtor. Reward to persons discovering property.

And be it further enacted, That the said trustees, or any two of them, are hereby empowered to settle all matters, and accounts, between such absconding or concealed debtor, and his debtors or creditors, and to examine any person on oath concerning the same, which oath may be administered by any of the said trustees, two of them being present. Two trustees may proceed.

And be it further enacted, That in case any controversy shall arise concerning any claim by any creditor of such absconding or concealed debtor or concerning any debt or demand, claimed by the said trustees as such, the said trustees or any two of them, may have such controversy determined in the following manner, to wit; the said trustees, or any two of them, may nominate two referees, not being creditors of such debtor, or otherwise interested in such controversy: And the other party in such controversy, shall nominate two indifferent persons, to be referees, and their names shall be separately written on four pieces of paper, as nearly as may be of one size, and figure, which shall be rolled up separately in the same manner, and put into a box, and from thence, one of the trustees shall draw out three of them, and the persons whose names are so drawn shall finally settle the controversy: And if any referee, so appointed, shall refuse or be incapable to act in a reasonable time, a new choice shall be made in manner aforesaid, of another in his stead; and in case the other party to such controversy shall refuse to

Adverse claims to property to be settled by arbitration.

nominate referees, then any two of the trustees may nominate for him, and proceed to the final settlement of the controversy as aforesaid.

Distribu-
tion of pro-
ceeds of
debtor's
property
by the
trustees.

And be it further enacted, That the trustees shall convert the estate of such debtor into money, and any two of them shall by public notice, in two of the public news papers as aforesaid, request a general meeting of the creditors, of such debtor, to see the debts due to each ascertained, at a certain time and place to be specified in the notice, not less than two, nor more than three months thereafter, nor more than one year and an half from the time of their first appointment; at which meeting, or other adjourned meeting, if necessary, thereafter, when all accounts shall be fairly adjusted, the trustees shall proceed to make distribution among the creditors, in proportion to their respective just demands, of all monies that shall have come to their hands, for that purpose, first deducting thereout all legal charges, and commissions: In which payment no preference shall be allowed to debts due on specialties; and if the whole of such debtors estate, be not then distributed, the trustees, or any two of them, shall within one year thereafter make a second dividend, of all such monies, as shall have come to their hands, after the first division, and so from year to year, until a distribution shall have been made as aforesaid, of all the estate of such debtor, and the surplus, (if any,) after all just debts, and legal charges, as aforesaid are satisfied, shall be paid to such debtor, or his lawful representatives.

Claims not
due.

And be it further enacted, That any person, who may have given credit to any such debtor on a valuable consideration, for any sum of money, not due at the time of any such distribution, but payable afterwards, shall nevertheless be considered a creditor, and receive his dividend, on deducting therefrom, a rebate of legal interest, for what shall be received, from the time of actual payment thereof, to the time such debt would have become due.

Claims not
presented.

And be it further enacted, That if any creditor shall neglect, or refuse to give notice of, or deliver to the said trustees, an account of his demand, or, having a controversy relating thereto, or concerning the estate of such debtor, shall refuse to settle the same with the trustees, in manner aforesaid, until after distribution aforesaid, such creditors shall not be entitled to any dividend, and the monies in hand shall be divided among the other creditors, but if such creditor shall comply as aforesaid, before any second distribution as aforesaid, then such creditor shall have the sum, he would have been entitled to, on the first distribution before any second dividend be made.

Attorney
for creditor
residing
out of
State.

And be it further enacted, That any creditor residing out of this State, shall be deemed a creditor within this act, and his attorney, on producing a letter of attorney duly authenticated, and legal proof of his demand, may proceed and act in the same manner under this act, as if the creditor himself were present.

Superse-
deas, when
to issue.

And be it further enacted, That if any such debtor, shall before the appointment of trustees, apply in person, or by attorney, to the judge, who issued the warrant, and give such security as such judge shall approve, to the creditor, at whose instance the warrant issued, to appear and plead to any action, to be brought in any court of law, or equity in this State, within six months thereafter, against him by such creditor, and to pay such sum, as may be recovered in such action, in that case such judge, shall issue a supersedeas, to the warrant, and no further proceedings shall be had thereon. *And further* that where any vessel, or part thereof shall be attached, the judge who issued the warrant, may cause such vessel, or part thereof, to be valued by indifferent men,

and if any person will give security to be approved by the said judge, to the people of this State, for the benefit of the creditors of such debtor, to pay the amount of such valuation, to the trustees, the said judge shall cause such vessel, to be discharged from the attachment.

And be it further enacted, That where any such debtor, shall die after the time fixed for his appearance, in the notice aforesaid shall have expired, the proceedings shall go on, to a final conclusion, and with equal validity as if such debtor had lived. Death of debtor.

And be it further enacted, That the estate, real and personal of every debtor, who resides out of this State, and is indebted within it, shall be liable to be attached, and sold for the payment, of his debts, in like manner, in all respects, as nearly as may be, as the estates of debtors, residing within this State. *Provided always,* that instead of proof of absconding, or concealment of such debtor, the creditor applying, shall make proof by two witnesses, to the satisfaction of the judge of the residence of such debtor out of this State, that in every such case no trustees shall be appointed until the expiration of one year, after such public notice as aforesaid. Debtors residing out of this State.

And be it further enacted, That the first judge, of the court of common pleas, in each county, and the mayor, and recorder, of the city of New York, and every of them, may put this act, in execution in their respective counties. *Provided always,* that where warrants shall be issued by either of them, and also by a judge of the supreme court, in such case the judge of the supreme court, shall award a writ of certiorari, to the judge of the court of common pleas, or mayors court, as the case may be, to remove the proceedings before him, so that he may proceed upon both warrants, or either of them. What judges to act in the various counties.

And be it further enacted, That the judge, mayor, or recorder, who shall issue any warrants, in pursuance of this act, shall make report to the court, whereof he is judge, of all the proceedings had before, or done by him out of court under this act, and cause that report to be entered in the minutes of the said court, and such report, or the entry thereof, shall be full and conclusive evidence, in all courts of record, of the facts so reported. *And farther,* that he shall cause the affidavits of the creditors, within thirty days after taking the same, and the warrant with the sheriffs return, within thirty days, after the return thereof, to be filed in the office of the clerk of the court, whereof he is judge, which clerk shall mark thereon, the day and year of filing the same. Minutes of the court.

And be it further enacted, That the judge, appointing trustees as aforesaid, shall at the request of any one of them, indorse on such appointment, an allowance, that the same may be recorded; which allowance, signed by a judge of the supreme court, shall be a sufficient authority to the secretary of this State, and to the clerk of any county to record the same: And if signed by the said judge of the court of common pleas, or mayor's court, shall be a sufficient authority to the clerk of the court whereof he is judge, to record it: And any appointment of trustees as aforesaid, or the record thereof, shall be conclusive proof in all courts, that the debtor therein named, was at the time, absconding, concealed, or absent, within the meaning of this act; and that the said appointment, and proceedings previous thereto, were regular. And if the said trustees, shall by virtue of this act, sell any real estate of such debtor, they shall then cause their appointment, duly proved, or acknowledged, and allowed, to be recorded, either in the secretary's office of this State, or in the clerk's office, of the county, where the land lies. Recording of appointment of trustees.

Accounts
of trustees.

And be it further enacted, That the said trustees, shall keep a regular account, of all monies by them received as trustees, to which every creditor interested therein, may at all reasonable times, have recourse, and the said trustees, shall be subject to such order, for the more effectual execution of this act, as shall be made in the court, of which the person appointing them, is judge, and they shall render to such court on oath, a just and true account, in writing of their proceedings and accounts in the premises, which shall be filed with the clerk thereof: And the said trustees, may before each dividend made, retain in hand, for their services, the sum of five per cent, on the whole sum, which shall come into their hands, over and above all necessary disbursements in the premises.

Suits for
acts done.

And be it further enacted, That if any person be sued for, any matter or thing done in pursuance of this act, he may plead the general issue, and give the special matter in evidence, and also, that this act, shall be beneficially construed for the creditors in all courts of record.

Persons
imprisoned
in State
prison
deemed
absconding
debtors.

And be it further enacted, That every person, imprisoned in the State prison, other than persons adjudged to imprisonment for life, for offences committed after the twenty ninth day of March, in the year one thousand, seven hundred and ninety nine, shall be deemed to be an absconding debtor within this act, and trustees may immediately, on the application of a creditor, be appointed without any proof of concealment, or warrant issued, or notice given as aforesaid, or without any regard to the amount of the sum, in which any such person may be indebted. And that it shall be lawful, for the trustees, to apply such sum, out of any surplus which may be remaining in their hands, after paying all the debts of the prisoner, which shall come to their knowledge, for the maintenance of the wife and children, and educating the children of such person, as the chancellor, or a judge of the supreme court, or of any court of common pleas, or mayor, or recorder, of any city, shall from time to time allow.

Trustees to
re-deliver
property
to person
discharged

And be it further enacted, That whenever any person, against whom such proceedings, as last aforesaid, shall be had, shall be lawfully liberated from the said prison, it shall be lawful for the said trustees, and they are hereby required to deliver up to him, all and singular the estate real, and personal, of such person, which may then remain in their hands, after retaining a sufficient sum to satisfy all the lawful charges, and expences, which they may have incurred in the execution of their trust.

Where per-
sons im-
prisoned
for life.

And be it further enacted, That where any person so proceeded against hath been, or shall be imprisoned for life, for an offence, committed previous to the said twenty ninth day of March, it shall be lawful for the said trustees, and they are hereby, required, after the payment of all debts, due by such person, and retaining a sufficient sum, to satisfy all lawful charges, and expences, as aforesaid to convey and deliver the residue of the estate real and personal of such person, to such person, or persons, as shall be legally entitled to the same.

Recorder
of New
York city.

And be it further enacted, That the recorder of the city of New York, shall be, ex officio, a commissioner equally authorized, and required with a judge, of the supreme court, to do and execute the powers and duties which such judge is authorized, and required to do, and execute by virtue of this act.

CHAP. 50.

AN ACT for the relief of creditors, against heirs, and devisees.

PASSED the 21st of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That every creditor whether by simple contract or specialty, and whether the heirs are mentioned therein or not, may maintain his or her action against the heirs at law of any debtor who hath died, or shall die intestate, seized of any lands, tenements or hereditaments, and against the heirs and devisees of such debtor, in case such debtor made any last will and testament, and every such heir and devisee shall be chargeable for a false plea, pleaded in the same manner as any heir would have been for any false plea pleaded in any action of debt upon specialty or for not confessing the lands or tenements descended, and all creditors shall be preferred as in actions against executors and administrators.

Creditors may maintain action against heirs at law and devisees.

And be it further enacted That in all cases where any heir is or shall be liable to pay the debt of his or her ancestor in regard of any lands tenements or hereditaments descending to him, and shall alien the same before suit brought, every such heir shall be answerable for such debt, to the value of the land so aliened, in which case all creditors shall be preferred as in actions against executors and administrators, and such execution shall be taken out upon any judgment so obtained against any such heir to the value of the said land as if the same were the proper debt of such heir, but the lands, tenements or hereditaments bona fide aliened before the action brought, shall not be liable to such execution.

When heir alienes lands before suit brought.

And be it further enacted That when any action shall be brought against any heir, such heir may plead riens per descent, at the time of the commencement of such action, and the plaintiff may reply that such heir had lands, tenements or hereditaments from his or her ancestor before commencement of such action; and if upon issue joined thereon it be found for the plaintiff, the jury shall enquire of the value of the lands, tenements or hereditaments so descended, and thereupon judgment shall be given, and execution awarded as aforesaid; but if judgment be given against such heir, by confession of the action, without confessing the assets descended, or upon demurrer, or nihil dicit, it shall be for the debt and damages, without any writ to enquire of the lands, tenements, and hereditaments so descended.

Pleadings: judgment.

And be it further enacted, That every devisee made liable by this act, shall be chargeable in the same manner as the heir or heirs at law, notwithstanding the lands, tenements and hereditaments devised, shall be aliened before the action brought, and may plead the like pleas, and shall be liable to the like judgment and execution.

Devisees chargeable as heirs at law.

CHAP. 51.

AN ACT for regulating outlawries.

PASSED the 21st of March, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That in all actions of account, debt, detinue, annuity, covenant, conspiracy and of the case, and in all actions of replevin after

Outlawry, in what cases allowed.

CHAP. 49.

AN ACT, for relief against absconding, and absent debtors.

PASSED the 21st of March, 1801.

Warrants
of attach-
ment
against the
property
of abscond-
ing debtors

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That whenever, any person, other than those, who may be liable to be declared bankrupts, under the laws of the United States, being indebted within this State, shall either secretly depart from, or keep concealed within the same, any one creditor, or joint company, to whom such person, is indebted in the sum of one hundred dollars, or upwards, or any two, to whom he is indebted in the sum of one hundred and fifty dollars, or upwards, or any three, to whom he is indebted in the sum of two hundred dollars, or upwards, over and above all discounts, may apply to a judge of the supreme court, and make oath, or affirmation in writing, that such debtor, is indebted to him or them, in one of the sums before mentioned, or in any sum exceeding the same, over and above all discounts, and that he or they do verily believe that such debtor, is departed this State or concealed within it, with intent to defraud his creditors, of their just dues, or to avoid being arrested by the ordinary process of law: Which departure, or concealment shall also be proved to the satisfaction of such judge, by two witnesses: And on such proof, the judge shall issue his warrant, to the sheriff of any one, or more of the cities, and counties of this State, commanding him to attach, and safely keep all the estate, real and personal of such debtor, within his county, with all books of account, vouchers and papers relating thereto; which warrant the sheriff shall execute, and with the assistance of two substantial freeholders, forthwith make a true inventory of all such estate, so, attached, and return the same, signed by himself, and the two freeholders to the judge who issued the warrant.

Public
notice to
be given of
attach-
ments.

And be it further enacted, That such judge, shall immediately thereafter order notice to be given in two public newspapers of this State, one of which to be printed in the city of New York, and the other by the printer to the State, that on application as aforesaid, he had directed all the estate of such debtor to be seized, and that unless he return and discharge his debts, within three months after such notice, the estate will be sold for the payment of his debts.

Sale of
perishable
goods.

And be it further enacted, That in case any sheriff shall seize any perishable goods, the judge who issued the warrant may, in his discretion, order such goods to be sold, and the monies arising therefrom, to be paid to the trustees, to be appointed in pursuance of this act.

Proceed-
ings where
property is
claimed by
others.

And be it further enacted, That if any sheriff shall ignorantly seize any goods, or effects which shall be claimed by any person as his property, such sheriff may summon and swear a jury to try the property thereof, and if the jury by inquisition find the property of the same, to be in the person so claiming, or in any other person than the said debtor, the sheriff shall forthwith deliver the goods or effects to the person in whom the property thereof shall be so found, or to his authorized agent, and shall not be liable to prosecution for such seizure, and all reasonable charges, arising by the sale of such perishable goods, or by the said inquest, if it find the property not to be in such debtor, shall be allowed and certified by the judge issuing the warrant, and paid out of the estate of the said debtor, but if the

property of the goods or effects so claimed be by such inquisition found in the said debtor, then all costs and charges arising by such claim and inquisition, or either of them, shall be paid by the person who made the claim, or procured or occasioned the said inquisition.

And be it further enacted, That if any person indebted to such absconding or concealed debtor, or having the possession of any of his property, shall after the first public notice aforesaid, pay any debt, or deliver any such property to the absconding or concealed debtor, his attorney or assigns, the person so paying or delivering shall be deemed to have done it fraudulently, and shall answer for the value thereof to the trustees to be appointed by virtue of this act, or if sued for the same, after the first public notice aforesaid by the absconding or concealed debtor, he may plead the general issue, and give this act and the special matter in evidence.

Payments not to be made to or for account of absconding debtors after attachment.

And be it further enacted, That all sales of the estate real or personal of such absconding, or concealed debtor, and all assignments of any bill, note, or other chose in action belonging to him, made after the first public notice aforesaid, shall be null and void.

Sales by debtor void.

And be it further enacted, That if such debtor, shall before the appointment of trustees hereinafter mentioned, by himself or attorney, by petition to the said judge, offer to prove to the court of which he is a judge, in open court, that he is a resident within this State, and was not within thirty days before issuing the warrant, nor at any time after, nor is then absconding, or concealing and thereby pray, that the same may be heard, at the next term of such court, and shall at the same time execute and deliver to the creditor, or creditors, who procured the warrant, a bond with sufficient security, to be approved of by the said judge, in the sum of one hundred dollars, with a condition that such debtor, shall prove to such court, at the then next term, the said facts offered in such petition, to be proved, and which are to be stated in the said condition, the said judge shall then report his proceedings in the premises to the said court, at the next term thereof, which court is hereby authorized to compel the parties and their witnesses, to come into court, and hear the proofs, and allegations of the parties in a summary way, and to determine whether the matters in such petition have been satisfactorily proved. And if such court shall determine that they have, they shall then grant a supersedeas, to such warrant, or warrants, and such debtor shall recover his costs, to be taxed by the said court, in open court, of the creditor, or creditors who procured the warrant, or warrants to be issued; but if the court shall determine the matters, in such petition not satisfactorily proved, then the obligee, or obligees in such bond, may by suit recover the penalty thereof with costs, the one moiety of such penalty to the use of the obligee, or his legal representatives, and the other moiety thereof when recovered and received, to be paid to the trustees appointed by virtue of this act, to be by them distributed in like manner, as other monies which may come to their hands as trustees, by virtue of this act.

How attachment may be vacated on application of debtor.

And be it further enacted, That if such debtor do not return within three months, next after such notice, and satisfy his creditors, not having presented the petition, or given the bond as aforesaid; or having done the same, and the court shall have adjudged the matters in such petition not satisfactorily proved, and shall have refused to grant a supersedeas to such warrant, that then in either of the said cases, the judge who issued the warrant, or any other judge of the same court, shall nominate and appoint under his hand and seal, three or more fit persons to be trustees, for all the creditors of such debtor, which trust-

Trustees for the creditors.

tees, shall, before they proceed, take an oath, or affirmation, to be administered by the judge appointing them, well and truly to execute the trust, by that appointment reposed in them, according to the best of their skill, and understanding.

Notice to be published by trustees.

And be it further enacted, That the said trustees, or any two of them shall as soon as may be thereafter, give notice in two of the news papers printed in this State, one of which to be printed in the city of New York, and the other by the printer to the State, of their appointment and require all persons indebted to such absconding or concealed debtor, by a day certain, to be mentioned in the notice, to pay all debts, and sums of money, which they owe to such debtor, and deliver all property of such debtor, which they have in possession, to the said trustees, and also to desire all creditors of such debtor, by a day to be mentioned in their notice, to deliver to them or one of them, their respective accounts and demands against such debtor.

Trustees to take all of debtor's property into possession.

And be it further enacted, That each of the said trustees, may take into their hands all the estate of such debtor, whether attached as aforesaid or afterwards discovered by them, and all books, vouchers, and papers relating to the same, and the said trustees from their appointment shall be deemed vested with all the estate of such debtor, and shall be capable to sue for, and recover the same, and all debts and things in action, due or belonging to such debtor, and all the estate attached as aforesaid shall be by the sheriff who took the same, delivered over to the said trustees, and the trustees or any two of them, shall sell at public vendue, after fourteen days previous notice of the time, and place, all the estate, real and personal, of such debtor, as shall come to their hands, and deeds, and bills of sale for the same make and execute, which deeds and bills of sale shall be as valid, as if made by such debtor, before the first public notice aforesaid.

Concealment of debtor's property.

And be it further enacted, That if any person indebted to the said absconding or concealed debtor, or having the custody of any property belonging to him, shall conceal the same, and not deliver a just account thereof to the said trustees, or one of them, by the day, for that purpose appointed, the person concealing and not delivering as aforesaid, shall forfeit double the sum of the debt, or value of the property so concealed or not accounted for, to be recovered by action by the said trustees, and applied as hereinafter directed. And the court before whom such action shall be brought, is hereby empowered to compel the person, so concealing and not accounting as aforesaid, to appear before it, and be examined on oath, touching the premises, and to commit such person, to prison if he refuse to be examined, or being examined, refuse to answer satisfactorily to such court.

Proceedings by trustees to discover property; penalty for witness refusing to answer.

And be it further enacted, That the said trustees, may apply to any justice of the peace, who in such case is required to grant a warrant, commanding the said absconding, or concealed debtor, his wife, and every other person known, or suspected to detain any part of his estate, or to be indebted to it, or to know any thing concerning the concealment, or embezzlement thereof, to be brought before him, at such place as he and the trustees shall appoint, where the said justice or in his absence any other justice, to be requested by the said trustees shall be present, at which meeting either the said justice, or the said trustees, or both, may examine on oath to be administered by the justice, every person so brought before them, on the said warrant, touching all matters relative to the said debtor, his dealings, and his estate, and reduce the examination to writing, which the said person is hereby required to sign; and if the said person shall refuse to be sworn, or to answer, or shall not

answer to the satisfaction of the said justice, all lawful questions to be put by the said justice, and trustees, or the major part of them present, as well by word of mouth, as by interrogatories in writing, or shall refuse to sign the examination, not having any reasonable objection, either to the wording thereof or otherwise, to be allowed by the said justice, the said justice shall then by warrant, commit such person to prison, there to remain without bail, until he shall submit to do what shall be required of him as aforesaid. *Provided always*, that the said warrant of commitment, shall specify the particular default of such person, and if it be, in not answering any question, such question shall be specified in the warrant: *And provided also*, that if such person shall bring any habeas corpus, to be discharged from imprisonment, and on the return thereof, there shall appear any insufficiency in the form of the warrant, then the court, or judge before whom such person shall be brought, by the said habeas corpus, shall by order, or warrant, recommit him, unless it shall be made to appear, that he hath answered all lawful questions put to him, or had sufficient reason for refusing to sign the examination, as the case may be, and if such person be wilfully suffered to escape from prison, the gaoler or keeper, wilfully suffering the same, and being thereof convicted on indictment or information, shall forfeit to the trustees, a sum equal to all such sums, as shall be owing to the creditor, or creditors of such absconding, or concealed debtor, *provided* the same does not exceed two thousand five hundred dollars, to be sued for, and by them recovered, and distributed as herein after directed.

And be it further enacted, That the survivors or survivor of the said trustees, shall have all the powers given to the said trustees by this act, and that if any person so to be examined, shall wilfully and knowingly swear or affirm falsely, he shall be liable to the pains and penalties of wilful and corrupt perjury. Survivors of trustees may act; perjury.

And be it further enacted, That any person, other than those who have the effects in possession, who shall discover any secreted effects of such debtor, so that they be recovered by the said trustees, shall be entitled to ten per cent. on the value of the effects, so discovered, to be paid by the trustees out of the estate of the said debtor. Reward to persons discovering property.

And be it further enacted, That the said trustees, or any two of them, are hereby empowered to settle all matters, and accounts, between such absconding or concealed debtor, and his debtors or creditors, and to examine any person on oath concerning the same, which oath may be administered by any of the said trustees, two of them being present. Two trustees may proceed.

And be it further enacted, That in case any controversy shall arise concerning any claim by any creditor of such absconding or concealed debtor or concerning any debt or demand, claimed by the said trustees as such, the said trustees or any two of them, may have such controversy determined in the following manner, to wit; the said trustees, or any two of them, may nominate two referees, not being creditors of such debtor, or otherwise interested in such controversy: And the other party in such controversy, shall nominate two indifferent persons, to be referees, and their names shall be separately written on four pieces of paper, as nearly as may be of one size, and figure, which shall be rolled up separately in the same manner, and put into a box, and from thence, one of the trustees shall draw out three of them, and the persons whose names are so drawn shall finally settle the controversy: And if any referee, so appointed, shall refuse or be incapable to act in a reasonable time, a new choice shall be made in manner aforesaid, of another in his stead; and in case the other party to such controversy shall refuse to

Adverse claims to property to be settled by arbitration.

nominate referees, then any two of the trustees may nominate for him, and proceed to the final settlement of the controversy as aforesaid.

Distribution of proceeds of debtor's property by the trustees.

And be it further enacted, That the trustees shall convert the estate of such debtor into money, and any two of them shall by public notice, in two of the public news papers as aforesaid, request a general meeting of the creditors, of such debtor, to see the debts due to each ascertained, at a certain time and place to be specified in the notice, not less than two, nor more than three months thereafter, nor more than one year and an half from the time of their first appointment; at which meeting, or other adjourned meeting, if necessary, thereafter, when all accounts shall be fairly adjusted, the trustees shall proceed to make distribution among the creditors, in proportion to their respective just demands, of all monies that shall have come to their hands, for that purpose, first deducting thereout all legal charges, and commissions: In which payment no preference shall be allowed to debts due on specialties; and if the whole of such debtors estate, be not then distributed, the trustees, or any two of them, shall within one year thereafter make a second dividend, of all such monies, as shall have come to their hands, after the first division, and so from year to year, until a distribution shall have been made as aforesaid, of all the estate of such debtor, and the surplus, (if any,) after all just debts, and legal charges, as aforesaid are satisfied, shall be paid to such debtor, or his lawful representatives.

Claims not due.

And be it further enacted, That any person, who may have given credit to any such debtor on a valuable consideration, for any sum of money, not due at the time of any such distribution, but payable afterwards, shall nevertheless be considered a creditor, and receive his dividend, on deducting therefrom, a rebate of legal interest, for what shall be received, from the time of actual payment thereof, to the time such debt would have become due.

Claims not presented.

And be it further enacted, That if any creditor shall neglect, or refuse to give notice of, or deliver to the said trustees, an account of his demand, or, having a controversy relating thereto, or concerning the estate of such debtor, shall refuse to settle the same with the trustees, in manner aforesaid, until after distribution aforesaid, such creditors shall not be entitled to any dividend, and the monies in hand shall be divided among the other creditors, but if such creditor shall comply as aforesaid, before any second distribution as aforesaid, then such creditor shall have the sum, he would have been entitled to, on the first distribution before any second dividend be made.

Attorney for creditor residing out of State.

And be it further enacted, That any creditor residing out of this State, shall be deemed a creditor within this act, and his attorney, on producing a letter of attorney duly authenticated, and legal proof of his demand, may proceed and act in the same manner under this act, as if the creditor himself were present.

Supersedeas, when to issue.

And be it further enacted, That if any such debtor, shall before the appointment of trustees, apply in person, or by attorney, to the judge, who issued the warrant, and give such security as such judge shall approve, to the creditor, at whose instance the warrant issued, to appear and plead to any action, to be brought in any court of law, or equity in this State, within six months thereafter, against him by such creditor, and to pay such sum, as may be recovered in such action, in that case such judge, shall issue a supersedeas, to the warrant, and no further proceedings shall be had thereon. *And further* that where any vessel, or part thereof shall be attached, the judge who issued the warrant, may cause such vessel, or part thereof, to be valued by indifferent men,

and if any person will give security to be approved by the said judge, to the people of this State, for the benefit of the creditors of such debtor, to pay the amount of such valuation, to the trustees, the said judge shall cause such vessel, to be discharged from the attachment.

And be it further enacted, That where any such debtor, shall die after the time fixed for his appearance, in the notice aforesaid shall have expired, the proceedings shall go on, to a final conclusion, and with equal validity as if such debtor had lived. Death of debtor.

And be it further enacted, That the estate, real and personal of every debtor, who resides out of this State, and is indebted within it, shall be liable to be attached, and sold for the payment, of his debts, in like manner, in all respects, as nearly as may be, as the estates of debtors, residing within this State. *Provided always,* that instead of proof of absconding, or concealment of such debtor, the creditor applying, shall make proof by two witnesses, to the satisfaction of the judge of the residence of such debtor out of this State, that in every such case no trustees shall be appointed until the expiration of one year, after such public notice as aforesaid. Debtors residing out of this State.

And be it further enacted, That the first judge, of the court of common pleas, in each county, and the mayor, and recorder, of the city of New York, and every of them, may put this act, in execution in their respective counties. *Provided always,* that where warrants shall be issued by either of them, and also by a judge of the supreme court, in such case the judge of the supreme court, shall award a writ of certiorari, to the judge of the court of common pleas, or mayors court, as the case may be, to remove the proceedings before him, so that he may proceed upon both warrants, or either of them. What judges to act in the various counties.

And be it further enacted, That the judge, mayor, or recorder, who shall issue any warrants, in pursuance of this act, shall make report to the court, whereof he is judge, of all the proceedings had before, or done by him out of court under this act, and cause that report to be entered in the minutes of the said court, and such report, or the entry thereof, shall be full and conclusive evidence, in all courts of record, of the facts so reported. *And farther,* that he shall cause the affidavits of the creditors, within thirty days after taking the same, and the warrant with the sheriffs return, within thirty days, after the return thereof, to be filed in the office of the clerk of the court, whereof he is judge, which clerk shall mark thereon, the day and year of filing the same. Minutes of the court.

And be it further enacted, That the judge, appointing trustees as aforesaid, shall at the request of any one of them, indorse on such appointment, an allowance, that the same may be recorded; which allowance, signed by a judge of the supreme court, shall be a sufficient authority to the secretary of this State, and to the clerk of any county to record the same: And if signed by the said judge of the court of common pleas, or mayor's court, shall be a sufficient authority to the clerk of the court whereof he is judge, to record it: And any appointment of trustees as aforesaid, or the record thereof, shall be conclusive proof in all courts, that the debtor therein named, was at the time, absconding, concealed, or absent, within the meaning of this act; and that the said appointment, and proceedings previous thereto, were regular. And if the said trustees, shall by virtue of this act, sell any real estate of such debtor, they shall then cause their appointment, duly proved, or acknowledged, and allowed, to be recorded, either in the secretary's office of this State, or in the clerk's office, of the county, where the land lies. Recording of appointment of trustees.

Accounts
of trustees.

And be it further enacted, That the said trustees, shall keep a regular account, of all monies by them received as trustees, to which every creditor interested therein, may at all reasonable times, have recourse, and the said trustees, shall be subject to such order, for the more effectual execution of this act, as shall be made in the court, of which the person appointing them, is judge, and they shall render to such court on oath, a just and true account, in writing of their proceedings and accounts in the premises, which shall be filed with the clerk thereof: And the said trustees, may before each dividend made, retain in hand, for their services, the sum of five per cent, on the whole sum, which shall come into their hands, over and above all necessary disbursements in the premises.

Suits for
acts done.

And be it further enacted, That if any person be sued for, any matter or thing done in pursuance of this act, he may plead the general issue, and give the special matter in evidence, and also, that this act, shall be beneficially construed for the creditors in all courts of record.

Persons
imprisoned
in State
prison
deemed
absconding
debtors.

And be it further enacted, That every person, imprisoned in the State prison, other than persons adjudged to imprisonment for life, for offences committed after the twenty ninth day of March, in the year one thousand, seven hundred and ninety nine, shall be deemed to be an absconding debtor within this act, and trustees may immediately, on the application of a creditor, be appointed without any proof of concealment, or warrant issued, or notice given as aforesaid, or without any regard to the amount of the sum, in which any such person may be indebted. And that it shall be lawful, for the trustees, to apply such sum, out of any surplus which may be remaining in their hands, after paying all the debts of the prisoner, which shall come to their knowledge, for the maintenance of the wife and children, and educating the children of such person, as the chancellor, or a judge of the supreme court, or of any court of common pleas, or mayor, or recorder, of any city, shall from time to time allow.

Trustees to
re-deliver
property
to person
discharged

And be it further enacted, That whenever any person, against whom such proceedings, as last aforesaid, shall be had, shall be lawfully liberated from the said prison, it shall be lawful for the said trustees, and they are hereby required to deliver up to him, all and singular the estate real, and personal, of such person, which may then remain in their hands, after retaining a sufficient sum to satisfy all the lawful charges, and expences, which they may have incurred in the execution of their trust.

Where per-
sons im-
prisoned
for life.

And be it further enacted, That where any person so proceeded against hath been, or shall be imprisoned for life, for an offence, committed previous to the said twenty ninth day of March, it shall be lawful for the said trustees, and they are hereby required, after the payment of all debts, due by such person, and retaining a sufficient sum, to satisfy all lawful charges, and expences, as aforesaid to convey and deliver the residue of the estate real and personal of such person, to such person, or persons, as shall be legally entitled to the same.

Recorder
of New
York city.

And be it further enacted, That the recorder of the city of New York, shall be, ex officio, a commissioner equally authorized, and required with a judge, of the supreme court, to do and execute the powers and duties which such judge is authorized, and required to do, and execute by virtue of this act.

CHAP. 50.

AN ACT for the relief of creditors, against heirs, and devisees.

PASSED the 21st of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That every creditor whether by simple contract or specialty, and whether the heirs are mentioned therein or not, may maintain his or her action against the heirs at law of any debtor who hath died, or shall die intestate, seized of any lands, tenements or hereditaments, and against the heirs and devisees of such debtor, in case such debtor made any last will and testament, and every such heir and devisee shall be chargeable for a false plea, pleaded in the same manner as any heir would have been for any false plea pleaded in any action of debt upon specialty or for not confessing the lands or tenements descended, and all creditors shall be preferred as in actions against executors and administrators.

Creditors may maintain action against heirs at law and devisees.

And be it further enacted That in all cases where any heir is or shall be liable to pay the debt of his or her ancestor in regard of any lands tenements or hereditaments descending to him, and shall alien the same before suit brought, every such heir shall be answerable for such debt, to the value of the land so aliened, in which case all creditors shall be preferred as in actions against executors and administrators, and such execution shall be taken out upon any judgment so obtained against any such heir to the value of the said land as if the same were the proper debt of such heir, but the lands, tenements or hereditaments bona fide aliened before the action brought, shall not be liable to such execution.

When heir alien lands before suit brought.

And be it further enacted That when any action shall be brought against any heir, such heir may plead riens per descent, at the time of the commencement of such action, and the plaintiff may reply that such heir had lands, tenements or hereditaments from his or her ancestor before commencement of such action; and if upon issue joined thereon it be found for the plaintiff, the jury shall enquire of the value of the lands, tenements or hereditaments so descended, and thereupon judgment shall be given, and execution awarded as aforesaid; but if judgment be given against such heir, by confession of the action, without confessing the assets descended, or upon demurrer, or nihil dicit, it shall be for the debt and damages, without any writ to enquire of the lands, tenements, and hereditaments so descended.

Pleadings: judgment.

And be it further enacted, That every devisee made liable by this act, shall be chargeable in the same manner as the heir or heirs at law, notwithstanding the lands, tenements and hereditaments devised, shall be aliened before the action brought, and may plead the like pleas, and shall be liable to the like judgment and execution.

Devisees chargeable as heirs at law.

CHAP. 51.

AN ACT for regulating outlawries.

PASSED the 21st of March, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That in all actions of account, debt, detinue, annuity, covenant, conspiracy and of the case, and in all actions of replevin after

Outlawry, in what cases allowed.

a *capias* in *withernam* is returned that the person against whom it is issued has no goods, the like process may be had as in actions of trespass done with force and arms, and in these as well as in all other cases where process issues for taking the body, if it be returned that the person against whom such process issued is not found, such process may be pursued to the exigent, and outlawry thereupon.

Sheriff's
county
court for
declaring
outlawries.

And be it further enacted, That every sheriff shall hold a court in his county, either in person or by his sufficient deputy, on the first and third Monday in every month, in case any process shall require it, at the court house in his county to be called his county court, for the purpose of demanding persons upon exigents, and pronouncing outlawries thereupon: And it shall be sufficient for the sheriff or his deputy to give the judgment of outlawry, and to return the same upon the exigent without saying by the judgment of the coroners.

Outlawries
to rectify
name and
additions.

And be it further enacted, That in every original writ of actions personal, and in all indictments and informations, in which the exigent shall be awarded, to the names of the defendants in such writs, indictments, and informations, additions shall be made of their estate or degree, or mystery, and of the towns and counties of which they were or be conversant; and if by process upon the said writs, indictments or informations, in which the said additions be omitted, any outlawries be pronounced, they shall be void: And before any outlawries pronounced, the said writs, indictments, and informations in which such additions shall be omitted, shall be abated by the exception of party. *Provided always,* that although the said writs be not according to the records and deeds, by the surplusage of the additions aforesaid, they shall not be abated for that cause.

Accessory
not to be
outlawed
before
principal.

And be it further enacted, That no person charged as accessory in any indictment shall be outlawed until the principal be attainted: But such indictment may be nevertheless prosecuted; and the exigent against the accessory shall remain until the principal be attainted by outlawry or otherwise.

In case of
indictment
for treason

And be it further enacted, That after any person shall be indicted of treason, it shall be commanded to the sheriff to take the body of the person so indicted; and if the sheriff return on the writ that the body is not found, another writ of *capias* shall be immediately made returnable at a certain day not less than three months after the date of the same writ: And in the same writ shall be comprised, that the sheriff shall cause the goods and chattels of the person indicted, to be seized and safely kept until the day of the return of the writ: And if the sheriff return that the body is not found and the person indicted shall not appear, the exigent shall be awarded, and the goods and chattels so seized shall be forfeited to the people of this State. But if the person indicted appear, or be taken by the sheriff or other officer before the return of the second writ, then the goods and chattels shall be saved.

Where
person in-
dicted re-
sides in
another
county.

And be it further enacted, That upon every indictment against any citizen of this State dwelling in any other county, than where such indictment shall be taken of any treason, after the first writ returned, another writ shall be awarded directed to the sheriff of the county where the person indicted is or shall be supposed to be conversant by the same indictment, returnable in the same court before whom the indictment shall be taken at a certain day, not less than three months after the date of the same writ, by which the sheriff shall be commanded to take the body of the person so indicted, if he or she shall be found in his county; and if he or she shall not be found in his county, the sheriff shall make proclamation in two of his county courts before the

return of the same writ, that the person so indicted appear at the said court at the day of the return of the same writ, to answer to the people of this State of the treason whereof he or she shall be so indicted; and after such writ so served and returned if the person so indicted come not at the day of the return of the writ, the exigent shall be awarded against such person. And where any such indictment shall be taken before any other court or officer having authority to take the same, and be removed into the supreme court, no exigent shall be awarded by the supreme court, until such writ with proclamation be awarded and served, and returned as aforesaid: And if any exigent be awarded before such writ with proclamation be awarded, served, and returned as aforesaid, and outlawry be thereupon pronounced, the exigent and outlawry shall be void.

And be it further enacted, That in every action personal, and in all cases of indictments and informations for trespasses or misdemeanors wherein any writ of exigent shall be awarded out of any court, one writ of proclamation shall be awarded out of the same court, having the like test and return, as the said writ of exigent directed to the sheriff of the county where the defendant at the time of the exigent so awarded shall be dwelling; which writ of proclamation shall contain the effect of the action, indictment or information. And such sheriff shall cause to be made three proclamations in the form following; that is to say, one of the same proclamations in his open county court, and one other at the general sessions of the peace, in the county where the defendant at the time of the exigent awarded shall reside, and one other, one month at least before the fifth demand by virtue of the said writ of exigent at or near the most usual door of the church of the town where the defendant shall reside, at the time of awarding the said exigent; and if there be more than one church in such town, then at or near the most usual door of the church nearest the defendant's dwelling; and if there be no church in such town, then at or near the most usual door of the church in the next town, nearest the defendant's dwelling, and upon a Sunday immediately after divine service, if any there be; and if any such defendant shall at the time of awarding the exigent reside out of this State, then such writ of proclamation shall be directed to and executed by the sheriff to whom the exigent shall be directed; and in such case such writ of proclamation shall be published in one or more of the news papers to be printed in the city of New York, for twelve weeks before the return of the exigent. And all outlawries pronounced without writs of proclamations awarded and returned according to the form of this statute shall be void, and may be avoided by averment without suing out any writs of error.

Actions personal and indictments for trespass and misdemeanors.

And be it further enacted, That before any reversal of any outlawry be had, and before any allowance of any writ in error upon any outlawry, the defendant in the original action, shall put in bail, if bail was required in such action, not only to appear and answer to the plaintiff in the former suit, in a new action to be commenced by the said plaintiff for the cause mentioned in the first action, but also to satisfy the condemnation, if the plaintiff shall commence such suit before the end of two terms next after the allowing of the writ of error, or otherwise avoiding of the said outlawry.

Conditions precedent for reversal of outlawry.

And be it further enacted, That no person who shall be outlawed in any court for any cause whatsoever other than for treason or felony shall be compelled personally to appear in court to reverse such outlawry, but may appear by attorney, and reverse such outlawry without bail in all cases, except where special bail shall be ordered by the court.

Appearances by attorney.

Where outlawry had before judgment.

And be it further enacted, That in all cases where an outlawry shall be had before judgment in any personal action the plaintiff may suggest and set forth his cause of action upon the roll of the exigent after the return of the same upon which a writ shall issue to the sheriff of the county where the action shall be brought to summon a jury to appear in the court where the action shall be brought, if the same shall be brought in any other court than the supreme court; and if the action be brought in the supreme court, then before the justice of the supreme court, at the next circuit court to be held in the county where such action shall be brought to enquire into the truth of the matters charged by the plaintiff, and to assess the damages that the plaintiff shall have sustained thereby. And if the action shall be in the supreme court, it shall be commanded in the same writ, to the justice who shall hold such circuit court, that he make a return thereof to the supreme court, at the time in such writ mentioned; and upon the return of such writ if the action shall be in the supreme court, or upon the execution of such writ if the action shall be in any other court, execution shall be awarded for the sum found by the jury, with costs, both upon the outlawry, and prosecution of the said enquiry. *And further* that upon the execution of every such writ of enquiry, the plaintiff shall prove his cause of action and damages in the same manner as if the defendant had appeared and traversed the same.

When judgment and outlawry to be considered satisfied.

And be it further enacted, That upon the payment of the sum so found upon such enquiry with costs; or where any outlawry shall be had after judgment in any personal action upon payment of the debt or damages and costs, adjudged or upon the same being levied by execution, such outlawry and judgment shall be considered as satisfied and shall cease to have any further or other operation; and an entry shall in such case be made on the roll of the exigent after the return of the same; and after the execution or return of the enquiry, where such enquiry shall be made, that the debt or damages and costs are paid or levied; the defendant, as to the outlawry and any judgment, and execution thereupon shall go without day. *And further* that no outlawry in any personal action shall work any disability or forfeiture whatsoever in favor of any other person than the plaintiff at whose suit it shall be had.

CHAP. 52.

AN ACT relative to the money of account of this State.

PASSED the 21st of March, 1801.

Public accounts to be kept in dollars, dimes, cents and mills.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That all accounts in the treasury, all accounts in the county treasuries, all accounts in the several other public offices, all assessment rolls and all accounts arising from proceedings in the courts of justice within this State, shall be kept and made out in the money of account of the United States, that is to say, in dollars or units, dismes* or tenths, cents or hundredths, mills or thousandths; a dollar being four tenths of the pound heretofore used as the unit of money of account in this State, a disme* being the tenth part of a dollar, a cent the hundredth part of a dollar and a mill the thousandth part of a dollar.

* So in original.

And be it further enacted, That in all judgments and decrees to be made or given in any court of justice, for any debt, damages or costs, the amount thereof shall be computed and ascertained as near as may be in dollars and cents, rejecting lesser fractions, if any, and in all executions to be issued thereon, it shall only be necessary to mention the said amount in dollars and cents; and no judgment decree or other proceedings shall be considered as erroneous for or by reason of the omission of the fractional parts of a cent in any such computation.

Judgments
to be stated
in dollars
and cents.

CHAP. 53.

AN ACT to prevent malicious maiming.

PASSED the 21st of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That if any person, shall, on purpose, and of malice aforethought, cut out the tongue, or put out the eyes of any other person; or if any person shall, on purpose and of malice aforethought, and by lying in wait, unlawfully cut out or disable the tongue, put out an eye, slit the nose or lip, or cut off or disable any limb or member of any other person, with intention, in so doing, to murder or kill, or to maim or disfigure, in any the manners aforesaid, such other person; every such offence shall be deemed and adjudged felony; and every person so offending, and every person who shall aid, abet, counsel, hire or command, any person to commit any of the said offences, being thereof convicted or attainted, shall be, and hereby are declared to be felons.

Malicious
maiming
declared a
felony.

CHAP. 54.

AN ACT to prevent forgery and counterfeiting.

PASSED the 21st of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That if any person shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged or counterfeited, or willingly act or assist in the false making, altering, forging, or counterfeiting any record, charter, deed or writing sealed, will, testament, bond, writing obligatory bill of exchange, promissory note for payment of money, or any note or specialty for the payment of money and expressed to be payable in any goods, wares or merchandizes, indorsement or assignment of any bill of exchange or promissory note for payment of money, or any acquittance or receipt either for money or goods, or any acceptance of any bill of exchange, or the number or principal sum of any accountable receipt for any note, bill or other security for payment of money, or any warrant or order for payment of money or delivery of goods, whether such order purports to be the order of the owner of the goods or money specified therein, or of some person who claims an interest in the same or of any other person, with intention to defraud any person or body politic or corporate whatsoever, or shall utter or publish, as true, any false, altered, forged or counterfeit

Counter-
feiting and
forging
certain
securities,
notes,
orders,
etc., de-
clared
felony.

praisal of
value.

as aforesaid to be made, or which may be necessary to enable them to construct the said bridge and road, and may contract & agree with the owner or owners of the land for the purchase of so much thereof as may be necessary for the purpose of building the said bridge, and of making the said road, and for erecting and establishing gates, toll-houses and all other works to the said road belonging, if they can agree with such owners; but in case of disagreement between the president and directors of the said company, and the owner or owners, respecting the damages to be done to the said land, or if the owner or owners thereof shall be insane, feme covert, infants or out of the State, then the said president and directors may apply to one of the judges or assistant justices of the said county of Queens, not interested in the said road, who shall thereupon nominate, and, by an instrument in writing under his hand, appoint three freeholders of the said county, not being inhabitants of either of the aforesaid towns, who shall do and perform the duties herein after mentioned, and it shall be the duty of the president and directors to cause a copy of such appointment to be served on each of the three freeholders so appointed, and also to give notice to the owner or owners of such lands, of such appointment, and the time and place (which shall be determined upon by the said freeholders so appointed) at least eight days previous to such meeting, when and where they will meet to examine the land, and assess the damages, except the owner or owners shall labour under any of the disabilities heretofore enumerated or be absent, in either of which cases a copy of such notice may be left at the dwelling house of the party (if any) or other notorious place on the land through which such road shall be laid: *And further*, each of the said freeholders so to be appointed, shall, before he proceeds to execute the trust reposed in him by this act, take and subscribe an oath or affirmation before one of the justices of the peace in and for the said county, that he will, without favor or partiality, estimate and assess the damages that may be sustained by the owner or owners of any lands or improvements which the said company shall deem necessary for said road; and the said freeholders, so as aforesaid appointed, shall then proceed to view the premises, and having determined the damages, shall make an inquisition under their hands and seals, or the hands and seals of any two of them, stating the amount of damages which each or any of the owners of any parcel of land, used or to be used for the said road, have sustained or shall sustain, which inquisition shall be acknowledged by the said freeholders, so as aforesaid appointed, signing the same before one of the judges aforesaid, and filed in the office of the clerk of the said county of Queens, who shall at the costs charges and expences of the said company, record the same in the book of deeds, and the said company paying or tendering to the said several owners of the land, the several sums awarded by such inquisition, shall have and hold to them, their successors and assigns forever, the lands and tenements occupied by the said road, and the said company shall pay to the judge or justice, for the appointment aforesaid, two dollars, and to each of the said freeholders, for each day necessarily attending the duties required of him by this act, two dollars and fifty cents. *Provided always* that the said company, their agents and workmen shall be and they are hereby altogether restrained from cutting any of the timber growing on a certain island called Yonkers the property of Thomas Lawrence, or converting any part of the same timber to the use of the said company.

Entry on
adjacent
lands;
damages.

VI. *And be it further enacted*, That it shall and may be lawful to and for the president and directors of the said company, their superintendants, artists and laborers, with their carts, waggons and other

carriages and beasts of draft and burthen, and all necessary tools and implements, to enter upon any lands contiguous or near to the said road, first giving notice of their intention to the owners or occupants thereof, and doing as little damage as possible thereto, and making amends for any damage which may be sustained by the owners or occupants of such grounds or improvements, by appraisement in the manner herein before described, in case the president and directors and the owner or owners cannot agree, or in case the latter shall labor under any of the disabilities before mentioned or be absent, and on payment or tender of the appraised value, to take and carry away any stone, gravel or other material or substance, useful or necessary towards making and at all times keeping in repair the said road.

VII. *And be it further enacted*, That as soon as the president and directors of the said company shall have completed the said bridge and road, it shall be their duty to give notice thereof to the person administering the government of this State, who shall thereupon forthwith appoint three judicious persons to view the same and report to him in writing, whether the said bridge and road are completed in a workmanlike manner, according to the true intent and meaning of this act, and if the person administering the government of this State shall be satisfied with such report, he shall then by licence under his hand, and the privy seal of this State, permit the said company to erect one gate or turnpike across the said bridge and road, at such place as shall be determined upon by the president and directors of the said company and it shall thereupon be lawful for them to erect such gate and appoint toll gatherers to collect and receive of and from all and every person or persons passing on the road through the said gate, the tolls and duties herein after mentioned, and no more; that is to say, for every score of sheep or hogs, six cents; for every score of cattle, mules or horses, twelve cents; for every cart drawn by one horse, six cents; for every phaeton, chariot, coach or coachee, twenty five cents; for every stage, waggon, or other four wheeled pleasure carriage, drawn by two horses, twelve and an half cents; for every common waggon drawn by two horses, eight cents; for every sleigh, drawn by one or two horses, six cents, and three cents for every additional horse; for every cart drawn by two oxen, mules or horses, six cents, and for every additional ox, horse or mule two cents, and in like proportion if drawn by a greater or less number of horses, mules or oxen; for every chair, gig or sulkey, twelve and an half cents; for every man on horseback, six cents; and for every foot passenger, two cents: And it shall and may be lawful for the toll gatherers to stop any person leading or driving any horse, cattle, sheep, hogs, sulkey, phaeton, chair, chaise or any other carriage of burthen or pleasure, or any foot passenger from passing the said gate or turnpike, until they shall have respectively paid the toll as above specified: *Provided always*, that no toll shall in any wise be demanded or received from any person or persons either on account of themselves, their horses, cattle, waggons or other carriages having occasion to pass and repass over the said bridge and road, or either to the salt meadows for the purpose of cutting curing and carrying away salt grass or sedge.

VIII. *And be it further enacted*, That the said company shall affix to the gate a printed list of the rates of toll which may be lawfully demanded; and if any person shall break, cut or destroy any part of the bridge, turnpike or gate, which shall be erected in pursuance of this act, or shall forcibly pass the said gate without having paid the legal toll at such gate or turnpike such person or persons shall forfeit and pay ten dollars to be recovered by the treasurer of the said company to their use

License by
the gov-
ernor to
collect
tolls.

Rate of
toll.

Penalty for
forcibly
passing
toll gates.

ing and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints matters and causes whatsoever; and that they and their successors may have a common seal, and may change and alter the same at their pleasure; and also that they and their successors by the name of the Columbian Insurance Company, shall be in law capable of purchasing, holding and conveying any estate real or personal for the use of the said corporation.

Capital stock.

And be it further enacted, That a share in the stock of the said corporation shall be fifty dollars, or the equivalent thereof in specie, and the number of shares shall not exceed ten thousand and the whole amount of the stock, estate and property which the said company shall be authorised to hold, including the capital stock or shares above mentioned, shall never exceed in value five hundred thousand dollars.

And whereas by the the original articles of association bonds and mortgages for a considerable part of the capital of the said company may be taken in lieu of money, and as the said mortgages may be given upon property that the owner thereof may afterwards wish to dispose of; therefore,

Covenants to be inserted in mortgages.

Be it further enacted, That a covenant shall be inserted in each of the said mortgages to the following effect, that if any part of the premises so mortgaged be disposed of a release of such part shall be given by the said company; *provided always,* that the monies arising from such sale shall be paid to the said company, or if the property or any part thereof be sold on credit, mortgages shall be taken from the purchaser or purchasers and shall be assigned to the said company, and the original bond with such part of the premises as were not released by the said company shall also remain as a security for the payment of all the monies mentioned in the condition.

Directors, number and manner of choosing.

And be it further enacted, That for the well ordering of the affairs and concerns of the said corporation, there shall be chosen twenty directors, who shall hold their offices for one year and until others shall be chosen, and no longer, which directors shall at the time of their election, be stockholders and citizens of this State, and each of them at the time of their election and during their continuance in office, shall be holders in their own right, of at least sixty shares, and shall be elected on the last Wednesday of April in each and every year at the office of the said company, or at any other convenient place in the city of New York, and at such time of the day, as the president and assistants or a majority of them for the time being shall appoint, of which election public notice shall be given in at least two of the news papers printed in the city of New York and continued for the space of fifteen days immediately preceding every such election; and the elections shall be holden under the inspection of five stockholders not being directors, to be appointed for that purpose by the president and assistants or a majority of them, previous to every election, and the election shall be by ballot, and determined by a plurality of the votes of the stockholders present, and each stockholder shall be entitled for every share to one vote, and may vote by proxy, *provided* the proxy be derived immediately from such stockholder, whether citizen or foreigner.

Organization of directors; first board.

And be it further enacted, That the directors shall meet as soon as may be after every election, and shall choose out of the stockholders at large or their own body, a president and two assistants who shall serve for one year, and be sworn to discharge faithfully the duties of their office, but that neither the president or assistants shall be eligible to their places, unless they hold each in their own right at least sixty shares in the capital stock of the said corporation, and in case of the death,

resignation or inability to serve of the president assistants or either of them, such vacancy or vacancies shall be filled for the remainder of the year, in which they may happen, by a special election for that purpose; and that the president or in case of his death, resignation or inability the assistants, or either of them, and in case of their death, resignation or inability, then the secretary shall have power to call a meeting of the directors for the purpose aforesaid, by a notice published in two of the daily papers printed in the city of New York for three days immediately previous thereto and that the first directors shall be Paschal N. Smith, John R. Livingston, George Lewis, Gulian McEvers, I. C. Van den Heuvel, Peter R. Livingston, John P. Mumford, Isaac Clason, Walter Bowne, Benjamin G. Minturn, Cornelius I. Bogert, John Thurston, James Arden, James McEvers, Nicholas Fish, Benjamin Bailey, John Townsend, John Atkinson, Henry Cruger, and Richard S. Hallett who shall hold their offices respectively until the last Wednesday of April in the year of our Lord one thousand eight hundred and one, and in case of the death, resignation or inability to serve of one or more of the directors, such vacancy or vacancies shall or may be filled for the remainder of the year in which they may happen, by a special election for that purpose to be held in the same manner as is herein before directed respecting annual elections for directors.

And be it further enacted, That in case it shall at any time happen that an election of directors should not be made on any day, when in pursuance of this act, it ought to have been made, the said corporation shall not for that cause, be deemed to be dissolved, but it shall and may be lawful on any other day to hold and make an election of directors, in such manner as shall have been regulated by the laws and ordinances of the said corporation. Failure to elect not to forfeit charter.

And be it further enacted, That neither the president, assistants, directors or either of them, shall transfer any of the shares they may respectively hold under sixty, during their continuance in office without thereby forfeiting their places. Transfer of shares by directors.

And be it further enacted, That the directors or a majority of them, shall have power to make, prescribe and alter such bye laws, rules and regulations, as to them shall appear needful and proper, touching the well ordering of the said corporation the management and disposition of its stock, property, estate and effects, the transfer of shares, the duties and conduct of the president, assistants, secretary, clerks and servants employed, the election of directors and of all such other matters as appertain to the business of insurance, and shall also have power to appoint a secretary and so many clerks and servants, for carrying on the said business, and with such salaries and allowances to them the president and assistants as by the said directors shall be deemed advisable; *provided always* that such bye laws, rules and regulations shall not be repugnant to the constitution and laws of this State. Powers of directors.

And be it further enacted, That either of the assistants together with the president, or the two assistants in the absence of the president, shall have full power and authority, on behalf of the corporation, to make insurances upon vessels, freights and goods; and houses and stores; on specie and on goods and furniture in houses and stores; as also upon lives and for the ransom of persons in captivity; to sell annuities; and in cases of money lent upon bottomry and respondentia; and to fix premiums for the same; and all policies of insurance, by them made, shall be subscribed by the president or assistants of the Columbian Insurance Company, and countersigned by the secretary, and shall be binding and obligatory upon the said corporation in like manner, and How business to be transacted.

with like force and effect, as if under the seal of the said corporation, and the president with consent of either of his assistants, or the assistants in the absence of the president shall take such notes for premiums, the same being endorsed, and at such times of payment as they shall deem good and sufficient, and as shall be agreeable to the bye laws in such case made; *provided always* that no money or losses arising under any policy so subscribed, shall be paid, but with the approbation of at least four of the directors with the president and his assistants or a majority of them, having first made a board for that purpose; and for this object the president, or in his absence the two assistants one acting as president, shall be empowered to call together any four of the directors, in rotation if possible, and by plurality of voices may pay, settle and adjust all such losses, or other monied transactions, as may come before them, and the same shall be binding on the corporation.

And be it further enacted, That there shall be two stated general meetings of the directors in every year, to wit, on the third Tuesday of May and November, at which periods they shall examine the accounts, and make a dividend of so much of the profits of the said corporation, as to them or a majority of them shall appear advisable, but the monies received and notes taken for premiums or risks, which shall be undetermined or outstanding at the time of making such dividends, shall not be considered as part of the profits of the corporation; and in case of any loss or losses whereby the capital stock of the corporation shall be lessened, no subsequent dividend shall be made until a sum equal to such diminution and arising from the profits of the corporation shall have been added to the capital; and that once in every three years, the directors shall lay before the stockholders at a general meeting, for their information, an exact and particular statement of the surplus of profits if any there be after deducting losses and dividends.

And be it further enacted, That the lands, tenements and hereditaments which it shall be lawful for the said corporation to hold shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transaction of business, or such as shall have been bona fide mortgaged to the said corporation by way of security, or which may be conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which it shall have obtained for such debts; and with regard to all such lands, tenements and hereditaments so to be held by the said corporation as aforesaid, except such as may be for its immediate accommodation as aforesaid or such as it may hold by way of mortgage and whereof the actual possession shall be and remain in the mortgagors their heirs or assigns, the said corporation shall be bound to sell and dispose of the same respectively within five years after it shall acquire the same, and shall not be capable of holding the same after the expiration of the said five years, but the same shall immediately after the expiration of the said five years be forfeited to and vested in the people of this State.

And be it further enacted, That the said corporation shall not directly or indirectly deal or trade in buying or selling any goods, wares or merchandizes or commodities whatsoever, or in buying or selling any stock created by any act of Congress of the United States or of any particular State, unless by purchasing for the purpose of investing its capital stock or any part or parts thereof in the same for the greater security; or by selling for the payment of its debts, or when such stock shall be truly pledged to it by way of security for debts due to the said corporation: *And further* it shall not be lawful for the said corporation to issue or emit any notes or bills or make any contract for the payment of money

Stated
meetings
of direct-
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Right to
hold real
estate lim-
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Certain
business
not to be
carried on.

only, except the same be under the seal of the said corporation, and all such notes, bills and contracts shall be construed and taken to be specialties and shall not possess any other or greater power of being assigned or transferred than specialties at common law.

And be it further enacted, That no transferred share shall entitle the person to whom it may be transferred to a vote until the expiration of ninety days after such transfer. Transfer of shares.

And be it further enacted, That no person being a director of any other maritime insurance company in the city of New York, shall be eligible for a director of this insurance company. Directors, eligibility of.

And be it further enacted, That this act shall be and is hereby declared to be, a public act, and that the same be, for the time herein before limited, construed in all courts and places benignly and favorably, for every beneficial purpose therein intended. Act declared a public act.

And be it further enacted, That in respect to all debts contracted by the said corporation before the last Wednesday of March which will be in the year of our Lord one thousand eight hundred and twenty two, the persons composing the said corporation at the time of its dissolution shall be responsible in their individual and private capacity to the extent of their respective shares and no farther, in any suit or action to be brought after the dissolution of the said corporation. Responsibility of stockholders on dissolution.

CHAP. 57.

AN ACT for building a bridge over Flushing creek, and constructing a road and establishing a turnpike, between Flushing and New-Town, in the county of Queens.

PASSED the 21st of March, 1801.

I. Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That there shall be established a company of stockholders, for the purpose of building a bridge over Flushing creek, in the county of Queens, and of making a good and sufficient road from the town of Flushing aforesaid across the creek aforesaid, and the salt meadows and up-land, to the town spot of New Town aforesaid, who shall be and hereby are created and made a corporation and body politic, in fact and in name, to be known and distinguished by the name of "The Flushing and New Town Turnpike Bridge and Road Company," and by that name, they and their successors forever shall and may have perpetual succession, and shall be and are hereby made capable in law of suing and being sued, pleading and of being impleaded, answering and of being answered unto, defending and of being defended, in all courts and places whatsoever; and also shall and may make, use and have a common seal, and the same at pleasure alter; and also by that name shall be and are hereby made capable in law of purchasing, holding and conveying any estate, real and personal, that may be necessary to enable them to fulfil the end and intent of the corporation hereby created. Flushing and New-Town Turnpike Bridge and Road Company, incorporated.

II. And be it further enacted, That the capital stock of the said company shall consist of four hundred shares, and that the amount to be paid for each share shall be twenty five dollars, and that each stockholder shall be entitled to a vote for every share he or she shall hold. Capital stock.
Provided, that no person shall in any case be entitled to more than

Proviso as
to mode of
subscription.

twenty votes; and subscriptions for shares in the said company shall be taken in the manner following, to wit, Samuel Riker, Robert Moore and David Gardiner, shall be and they are hereby appointed commissioners for taking subscriptions, and each of the said commissioners shall, on or before the first Tuesday of May next, provide himself with a book and shall enter therein as follows: "We whose names are hereunder subscribed, do for ourselves and our legal representatives, promise to pay to the Flushing and New Town turnpike bridge and road company the sum of twenty five dollars for each share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such time and place, as shall be determined by the president and directors of the said company, until the whole amount of twenty five dollars is paid on each share." And the said commissioners respectively shall open their books for taking subscriptions for the purpose aforesaid, on the said first Tuesday of May next, and shall continue them open from day to day until the whole number of shares are subscribed for, and each subscriber shall at the time of subscribing pay unto the commissioner with whom he subscribes, three dollars for each share so by him subscribed, and as soon as three hundred shares are subscribed, the said commissioners shall cause an advertisement to be inserted in two of the publick news papers printed in the city of New York, thereby giving fourteen days notice of the time and place when and where the said subscribers shall meet for the purpose of choosing seven directors to manage the concerns of the said company for one year, and the day of such election shall forever thereafter be the anniversary day for electing directors; at which said first election the aforesaid commissioners or any two of them shall preside, and shall on estimating the whole number of votes taken at such election declare under their hands in writing the seven persons having the greatest number of votes for directors for the year then ensuing, and shall forthwith notify them of their election, and of the time and place when and where they are required to meet; and the said directors or a majority of them, being met in pursuance of such notice, shall elect one of their number for president, and five of the directors of the said company shall be a quorum and capable of transacting the business of the said corporation; and every act of the majority of the directors so met, shall be binding on the said company; and the president and directors may meet when and where they may think proper, and shall have full power to make such bye-laws, rules and regulations, not inconsistent with the laws of the United States or of this State, as shall be necessary, for the proper government of the said corporation, and shall and may appoint and employ such officers, agents, artists, workmen and others as they shall think necessary for executing the business of the said corporation, and allow and pay to them respectively such compensation for their services as they shall deem proper.

Election of
directors.

Powers of
directors.

Where
bridge to
be built.

III. *And be it further enacted*, That the aforesaid Samuel Riker, Robert Moore and David Gardiner be and they are hereby appointed commissioners, whose duty it shall be to examine and determine at what place the bridge shall be built over Flushing creek aforesaid, and what route or course the said road shall be laid out over the said creek, salt meadow and upland, from the place of beginning to the town spot of New Town aforesaid, and of what width the same shall be; so nevertheless, that the said bridge shall be not less than twenty feet wide, and the said road not less than four rods wide; and after having made such examination, and agreed and determined on the spot or place where the bridge shall be built over the said creek, and the route or course that

the said road shall run over the salt meadows and upland, to the town spot of New Town aforesaid, and the width of the said bridge and road, the said commissioners shall cause a proper survey thereof to be made and returned to them, which they or any two of them shall certify under their hands, and deliver to the president and directors of the said company on or before the first Tuesday of July next, together with a certified account of the expences attending such examination and survey, which shall be forthwith paid to the said commissioners by the president and directors of the said company. And it shall and may be lawful for the said commissioners, together with such persons as they shall employ to enter upon any land that they shall think necessary for the purpose of making such examination as aforesaid, and of executing and completing such survey as aforesaid.

Route of
road.

IV. *And be it further enacted*, That when the aforesaid survey shall be completed and delivered in the manner aforesaid, to the president and directors of the said company, they shall thereupon cause a bridge of the width of twenty four feet at least and with a good and sufficient railing thereon to be built and a road to be laid out in conformity thereto; eighteen feet in width of which said road shall be bedded with wood, stone, gravel, or any other hard substance, well compacted together, a sufficient depth to secure a solid foundation to the same, and the said road shall be faced with wood, gravel, or other hard substance, in such manner as to secure as near as the materials will admit an even surface, or shall and may be well and sufficiently planked upon piles, properly secured in the ground, of the like width as aforesaid; and the said bridge, so to be built over the Flushing creek, shall be constructed on the plan of a draw bridge, having at least one draw with fit and complete machinery to draw up and let down, which said draw shall not be less than eighteen feet wide in the clear and the piles on the respective sides of the said draw shall be so distant from each other as to admit a raft of twenty two feet wide to pass under, and it shall be the duty of the said company to keep, and at all times have ready, proper persons to attend the drawing up of said bridge, for the passage of any vessel or vessels for which no toll or other compensation shall be taken or demanded; and it shall be the duty of the said company at all times to keep and maintain in good and sufficient repair, the bridge and road aforesaid, and such other bridges as they shall cause to be erected upon the said road, and in case the said road shall cross a ditch lately dug by Edward Leverich and Cornelius Remsen, that then and in that case the said company shall cause a draw bridge to be erected over the said ditch, so as to admit boats to pass and repass the same, in like manner as the bridge over Flushing creek aforesaid: *Provided always*, that the part of the said road which the said company shall be bound to make in the manner herein before prescribed, and to keep at all times in proper turnpike order and repair, shall not extend farther than from the place of beginning at Flushing to the place where the said road shall last leave the salt meadows; and that it shall only be the duty of the said company to put and keep the residue of the road to the town spot of New Town, or such part thereof as shall be opened under this act, in ordinary condition and repair; but that they shall at their own expence set up good and lawful fences on each side of the said residue of the said road, as far as the same shall be laid open by the commissioners aforesaid for that purpose appointed.

Manner of
construct-
ing bridge
and road.

Duty as to
repairs.

V. *And be it further enacted*, That the president and directors of the said company, or any agent, superintendant or artist, by them appointed or employed, may enter into any land to be included in the survey so

Company
may take
necessary
lands; ap-

praisal of
value.

as aforesaid to be made, or which may be necessary to enable them to construct the said bridge and road, and may contract & agree with the owner or owners of the land for the purchase of so much thereof as may be necessary for the purpose of building the said bridge, and of making the said road, and for erecting and establishing gates, toll-houses and all other works to the said road belonging, if they can agree with such owners; but in case of disagreement between the president and directors of the said company, and the owner or owners, respecting the damages to be done to the said land, or if the owner or owners thereof shall be insane, feme covert, infants or out of the State, then the said president and directors may apply to one of the judges or assistant justices of the said county of Queens, not interested in the said road, who shall thereupon nominate, and, by an instrument in writing under his hand, appoint three freeholders of the said county, not being inhabitants of either of the aforesaid towns, who shall do and perform the duties herein after mentioned, and it shall be the duty of the president and directors to cause a copy of such appointment to be served on each of the three freeholders so appointed, and also to give notice to the owner or owners of such lands, of such appointment, and the time and place (which shall be determined upon by the said freeholders so appointed) at least eight days previous to such meeting, when and where they will meet to examine the land, and assess the damages, except the owner or owners shall labour under any of the disabilities heretofore enumerated or be absent, in either of which cases a copy of such notice may be left at the dwelling house of the party (if any) or other notorious place on the land through which such road shall be laid: *And further*, each of the said freeholders so to be appointed, shall, before he proceeds to execute the trust reposed in him by this act, take and subscribe an oath or affirmation before one of the justices of the peace in and for the said county, that he will, without favor or partiality, estimate and assess the damages that may be sustained by the owner or owners of any lands or improvements which the said company shall deem necessary for said road; and the said freeholders, so as aforesaid appointed, shall then proceed to view the premises, and having determined the damages, shall make an inquisition under their hands and seals, or the hands and seals of any two of them, stating the amount of damages which each or any of the owners of any parcel of land, used or to be used for the said road, have sustained or shall sustain, which inquisition shall be acknowledged by the said freeholders, so as aforesaid appointed, signing the same before one of the judges aforesaid, and filed in the office of the clerk of the said county of Queens, who shall at the costs charges and expences of the said company, record the same in the book of deeds, and the said company paying or tendering to the said several owners of the land, the several sums awarded by such inquisition, shall have and hold to them, their successors and assigns forever, the lands and tenements occupied by the said road, and the said company shall pay to the judge or justice, for the appointment aforesaid, two dollars, and to each of the said freeholders, for each day necessarily attending the duties required of him by this act, two dollars and fifty cents. *Provided always* that the said company, their agents and workmen shall be and they are hereby altogether restrained from cutting any of the timber growing on a certain island called Yonkers the property of Thomas Lawrence, or converting any part of the same timber to the use of the said company.

Entry on
adjacent
lands;
damages.

VI. *And be it further enacted*, That it shall and may be lawful to and for the president and directors of the said company, their superintendants, artists and laborers, with their carts, waggons and other

carriages and beasts of draft and burthen, and all necessary tools and implements, to enter upon any lands contiguous or near to the said road, first giving notice of their intention to the owners or occupants thereof, and doing as little damage as possible thereto, and making amends for any damage which may be sustained by the owners or occupants of such grounds or improvements, by appraisement in the manner herein before described, in case the president and directors and the owner or owners cannot agree, or in case the latter shall labor under any of the disabilities before mentioned or be absent, and on payment or tender of the appraised value, to take and carry away any stone, gravel or other material or substance, useful or necessary towards making and at all times keeping in repair the said road.

VII. *And be it further enacted*, That as soon as the president and directors of the said company shall have completed the said bridge and road, it shall be their duty to give notice thereof to the person administering the government of this State, who shall thereupon forthwith appoint three judicious persons to view the same and report to him in writing, whether the said bridge and road are completed in a workmanlike manner, according to the true intent and meaning of this act, and if the person administering the government of this State shall be satisfied with such report, he shall then by licence under his hand, and the privy seal of this State, permit the said company to erect one gate or turnpike across the said bridge and road, at such place as shall be determined upon by the president and directors of the said company and it shall thereupon be lawful for them to erect such gate and appoint toll gatherers to collect and receive of and from all and every person or persons passing on the road through the said gate, the tolls and duties herein after mentioned, and no more; that is to say, for every score of sheep or hogs, six cents; for every score of cattle, mules or horses, twelve cents; for every cart drawn by one horse, six cents; for every phaeton, chariot, coach or coachee, twenty five cents; for every stage, waggon, or other four wheeled pleasure carriage, drawn by two horses, twelve and an half cents; for every common waggon drawn by two horses, eight cents; for every sleigh, drawn by one or two horses, six cents, and three cents for every additional horse; for every cart drawn by two oxen, mules or horses, six cents, and for every additional ox, horse or mule two cents, and in like proportion if drawn by a greater or less number of horses, mules or oxen; for every chair, giga or sulkey, twelve and an half cents; for every man on horseback, six cents; and for every foot passenger, two cents: And it shall and may be lawful for the toll gatherers to stop any person leading or driving any horse, cattle, sheep, hogs, sulkey, phaeton, chair, chaise or any other carriage of burthen or pleasure, or any foot passenger from passing the said gate or turnpike, until they shall have respectively paid the toll as above specified: *Provided always*, that no toll shall in any wise be demanded or received from any person or persons either on account of themselves, their horses, cattle, waggons or other carriages having occasion to pass and repass over the said bridge and road, or either to the salt meadows for the purpose of cutting curing and carrying away salt grass or sedge.

License by
the gov-
ernor to
collect
tolls.

Rate of
toll.

VIII. *And be it further enacted*, That the said company shall affix to the gate a printed list of the rates of toll which may be lawfully demanded; and if any person shall break, cut or destroy any part of the bridge, turnpike or gate, which shall be erected in pursuance of this act, or shall forcibly pass the said gate without having paid the legal toll at such gate or turnpike such person or persons shall forfeit and pay ten dollars to be recovered by the treasurer of the said company to their use

Penalty for
forcibly
passing
toll gates.

in an action of debt; and if any person shall with his team, carriage or horse, turn out of the said road to pass the gate or ground adjacent thereto, and again enter on the said road, with intent to avoid the toll due by virtue of this act, such person shall forfeit and pay five dollars, to be recovered and applied in manner aforesaid.

Unreasonable delay by toll gatherer. IX. *And be it further enacted,* That if any toll gatherer shall unreasonably delay or hinder any traveller or passenger at the gate, or any boat or vessel at the bridge over Flushing creek, or shall demand or receive more or other toll than is by this act established, he shall for every such offence forfeit and pay the sum of two dollars, to be prosecuted for and recovered before any justice of the peace in the said county of Queens, for the sole use of the person so unreasonably detained or attempted to be defrauded.

Three years allowed to complete work. X. *And be it further enacted,* That in case the said bridge and road shall not be built, made and completed, within three years from and after the passing of this act, the said corporation hereby created shall cease and be dissolved.

Shares deemed personal property. XI. *And be it further enacted,* That the shares in the said company shall be deemed, taken and considered to be personal estate, and shall and may be transferable in such manner and under such regulations as the president and directors of the said company shall establish.

Accounts by officers. XII. *And be it further enacted,* That the president & directors of the said company, shall keep a just and true account of all monies received by them from the commissioners first named, and from the stockholders, and of all monies expended by them in and about the affairs and concerns of the said company, to be laid before the stockholders thereof, if required, once in every year, on the day of election of directors; and shall keep a just and true account of all monies received by the collectors of toll on the said bridge and road; and shall half yearly make and declare a dividend of the clear profits and income (all contingent charges being first deducted) amongst all the stockholders of the said company, the first dividend to be declared and made six months after the gate or turnpike is opened; and shall publish the half yearly dividend to be made of the clear profit amongst the stockholders, and of the times and places when and where the same will be paid, and shall cause the same to be paid accordingly.

Account to be filed with comptroller. XIII. *And be it further enacted,* That the said president and directors shall, within six months after said road and bridge shall be completed, lodge in the comptroller's office of this State an account of the expences thereof; and the corporation shall annually exhibit to the comptroller a true account or dividend of all the income arising from said toll, with the annual disbursements on said road and bridge.

When corporation may be dissolved. XIV. *And be it further enacted,* That the legislature may dissolve the said corporation, whenever the income arising from said toll shall have fully compensated the said corporation for all moneys they may have expended in purchasing, making, repairing and taking care of said road and bridge, together with an interest thereon of fourteen per centum per annum; and thereupon the right, interest and property of said road and bridge shall be vested in the people of this State, and be and remain at their disposal.

Public act. XV. *And be it further enacted,* That this act be and it is hereby declared to be a publick act.

CHAP. 58.

AN ACT declaring the crimes punishable with death or with imprisonment in the State prison.

PASSED the 21st of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That every person who shall hereafter be duly convicted or attainted of any manner of treason against the people of this State, or of any kind of murder, or of aiding or abetting or procuring any kind of murder to be committed shall suffer death for the same, and be hanged by the neck, until such person shall be dead. Crimes punishable by death.

And be it further enacted, That every person who shall hereafter be duly convicted or attainted of any manner of rape, or of the detestable abominable crime against nature committed with mankind or beast, or of burglary; or of feloniously breaking into, or taking any goods or chattels from any dwelling house, any person being therein and put in fear, or of robbing any dwelling house, any person being therein, or of robbing any person in any place whatsoever, or of willfully burning any dwelling house or any barn, or of any offence specified in the act entitled "An act to prevent forgery and counterfeiting," or of any offence specified in the act entitled "An act to prevent malicious maiming;" and every person who shall aid, abet, assist, counsel, hire or command any person to commit any of the said offences, and be thereof duly convicted or attainted, shall be punished with imprisonment for life in the State prison, and the justices who shall give judgment in any such case, shall upon consideration of all the circumstances thereof, adjudge the offender to imprisonment only, or to be kept in the said prison at hard labour, or in solitude, or both. Crimes punishable by imprisonment for life.

And be it further enacted, That if any person shall be indicted of felony, for stealing of any goods or chattels, in any county of this State, and thereof be convicted or attainted; if it shall appear upon evidence, and be found by the jury, that the said goods or chattels were taken by robbery or burglary, or in any other manner, in any other county, whereof, if such person had been convicted by a jury of such other county, such person would by law be liable to imprisonment in the said prison for life at hard labour or in solitude or both, then and in every such case judgment shall be given that the said offender be imprisoned in the said prison, for life at hard labour or in solitude or both. Id.

And be it further enacted, That every person who shall hereafter be duly convicted or attainted of any felony, other than such as are herein before enumerated and directed to be otherwise punished, and above the degree of petit larceny, and every person who shall aid, abet, assist, hire, or command any person to commit any such felony, and be thereof duly convicted or attainted, shall be adjudged by the justices who shall give judgment thereupon, on a consideration of all the circumstances of the case to imprisonment in the said prison at hard labour or in solitude, or to imprisonment only, or to all or either of them, for any term not more than fourteen years; *and farther,* that every person who shall be a second time duly convicted or attainted of any of the said last mentioned felonies committed after such first conviction, shall be adjudged by the justice who shall give judgment thereupon, on like consideration of all the circumstances of the case, to imprisonment in the prison aforesaid, at hard labour, or in solitude, or both for life. Crimes punishable by imprisonment for not more than fourteen years.

Second offense.

Petit larceny and other offenses; punishment.

And be it further enacted, That every person who shall be guilty of the felonious taking and carrying away of the mere personal goods of another of the value of twelve dollars and fifty cents or under (if unconnected with any other crime shall be deemed and adjudged guilty of petit larceny only, and where any person shall hereafter be convicted of petit larceny, or of any other felony, the punishment whereof is not herein before provided for, or of any assault with intent to rob murder or commit a rape, or where any person shall buy or receive any goods or chattels of any value whatsoever, that shall have been feloniously taken away or stolen from any other person knowing the same to be stolen, whether the principal be convicted or not, or shall knowingly and designedly by false pretence obtain from any other person, any money, goods or chattels or other effects whatsoever, with intent to cheat or defraud any person, or body politic or corporate, and every person who shall aid, abet, assist, hire, command or procure any other person to commit any of the said offences, or who shall be accessory to any felony whatsoever after the fact, shall being convicted of any of the said offences, be punished by fine and imprisonment, or either, or if it shall be deemed proper by the court before whom any such person shall be convicted, that instead of, or in addition to a fine, such person so convicted, ought to be imprisoned for twelve calendar months, or for a longer time, in such case, it shall be lawful for such court in their discretion to adjudge the person so convicted to imprisonment in the said prison, at hard labour, for any term of time, not more than three years; *and further,* that every person who shall be a second time or oftner convicted of any offence specified in this section (except the offences of assault with intent to rob, murder or commit a rape) shall be adjudged by the court who may give judgment thereupon to imprisonment in the said prison, at hard labour, or in solitude or both, for any time not exceeding five years; and that every person who shall be a second time or oftner convicted of the offences of assault with intent to rob, murder or commit a rape, or of either of them, shall in like manner be adjudged to imprisonment in the said prison, at hard labour, or in solitude, or both, for any time not exceeding eight years.

Second offense.

Imprisonment for less than twelve months.

Felony by escaped prisoner under life sentence.

Double imprisonment of escaped prisoner under other than life sentence.

Escaped prisoner's sentence deemed to

And be it further enacted, That no person sentenced to imprisonment, for any term of time less than twelve calendar months, shall be liable to be imprisoned in the State prison, but shall be confined in the gaol of the county, in which such person may be so sentenced.

And be it further enacted, That if any person hath been or shall be convicted, of any crime, for which such person hath been or shall be sentenced to imprisonment for life, in the State prison, shall break the said prison and escape from thence, and shall thereafter commit any felony, above the degree of petit larceny, then such person being thereof duly convicted; shall be hanged by the neck until dead.

And be it further enacted, That in case any person hath been or shall be sentenced to imprisonment in the State prison for any term of years, and shall break the said prison and escape from thence, and be retaken such person being thereof convicted, shall be deemed guilty of felony, and shall be adjudged to imprisonment and hard labor in the said prison for double the term of time specified in the original judgment against such person, to commence from the period of the last conviction, notwithstanding the term for which such person was to have been imprisoned may, when such person shall be retaken, have expired.—

And be it further enacted, That any person, adjudged to be imprisoned in the said prison, otherwise than for life, shall escape from the same then as often as such person shall so escape and be retaken, and again

imprisoned in the said prison, the period for which such person was adjudged to be imprisoned in the said prison, shall always be deemed to commence anew, from the day when such person shall, after having escaped, be retaken and imprisoned again in the said prison, which day shall be ascertained by the inspectors of the said prison; and every such person may be so retaken and imprisoned again, notwithstanding the term for which such person was to have been imprisoned may, when such person shall be retaken, have expired.—

commence from date of recapture.

And be it further enacted, That in all cases where any person shall be duly convicted or attainted of any felony committed after the twenty-ninth day of March one thousand seven hundred and ninety nine, or of aiding, abetting, hiring or commanding any person to commit any such felony, and shall be adjudged to imprisonment for life in the State prison, such person shall be deemed and taken to be civilly dead to all intents and purposes in the law.—

When prisoner adjudged civilly dead.

And be it further enacted, That if any person imprisoned in the said prison otherwise than for life, shall attempt to escape, or shall aid any other person, imprisoned in the said prison, in escaping or attempting to escape from the same, such person shall be deemed guilty of a misdemeanor, and shall on conviction, be adjudged to be imprisoned in the said prison, for such further term, not for life, after the determination of the term for which such person had at the time when the said misdemeanor was committed, been adjudged to be imprisoned, as the court shall in their discretion deem proper, and the court before whom a person may be indicted for the misdemeanor aforesaid; may from time to time by order of the court to be directed to the inspectors of the said prison, order the defendant in such indictment, and every other person imprisoned in the said prison (being a competent witness) to be brought before them, and also to assign counsel to the defendant, which counsel shall, at all convenient times, be admitted to converse in private with such defendant in the said prison.—

Attempt to escape or assisting another.

And be it further enacted, That if any person shall in any manner howsoever aid or assist any person confined in the said prison, in escaping or attempting to escape from the same, such person shall be deemed guilty of a misdemeanor, and shall on conviction thereof in due form of law, be adjudged to be imprisoned in the said prison, at hard labour, for such term of time, as the court, in which such conviction may be had shall, in their discretion, deem proper, not exceeding ten years.—

Assisting prisoner to escape.

And be it further enacted, That any person who shall be duly convicted of the crime of perjury or subornation of perjury, or of aiding or assisting any prisoner, lawfully committed to, or detained in any gaol, for any felony whatsoever, in escaping or attempting to escape from such gaol, though no escape be made, or of conveying any disguise, instrument or arms into any gaol to and for the use of any such prisoner so committed or detained as aforesaid, with intention to facilitate his or her escape, though no escape be made or attempted to be made, shall be punished with imprisonment at hard labour in the said prison, and the court before whom such conviction shall be had, shall upon consideration of all the circumstances of the case, adjudge such person so convicted, to imprisonment in the said prison, at hard labour, for any term not exceeding ten years, according to the nature and aggravation of the offence.—

Perjury; assisting felon confined in jail to escape.

CHAP. 59.

AN ACT for the inspection of lumber.

PASSED the 21st of March, 1801.

Inspectors
of lumber.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That the person administering the government of this State, by and with the advice and consent of the council of appointment, shall from time to time whenever it shall become necessary, appoint four or more inspectors of lumber for the city and county of New York, one inspector for the city of Albany, one inspector for the city of Hudson, one inspector for the landing at Kinderhook, and as many more in other parts of this State as may from time to time be necessary: *Provided however,* that the present inspectors of lumber shall continue in office during the pleasure of the said council.

Oath of
inspectors.

And be it further enacted That the said inspectors hereafter to be appointed, before they enter upon the execution of their offices, shall take the following oath before some person authorised to administer the same, viz.

I do solemnly swear that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office and duty of an inspector of lumber, according to the true intent and meaning of the laws of this State relative to the same.

Lumber to
be branded
by inspectors.

And be it further enacted That all timber boards, plank of every kind, scantling or shingles, before they are exported out of this State, shall be viewed and examined by some one of the inspectors aforesaid, and the said inspectors shall, on each board, plank or piece of timber, mark, with a marking iron the initial letters of his christian name and surname, with the number of feet in each board, plank or piece of timber, and the said inspectors shall not mark any but what they shall deem merchantable and good, and no board shall be deemed merchantable but what is at least six inches wide, clear of sap, and shall be of the actual thickness sold for; *provided however,* that all plank and boards, which are less than six inches wide, clear of sap, may be exported as sap plank and boards, if they be of the thickness of merchantable plank and boards, on being first inspected and marked with the letter S. the initials of the inspectors name, and the number of feet on each plank and board; and all merchantable shingles shall be of the following dimensions: The first size shall be eighteen or twenty two inches in length, four inches in breadth, and three eighths of an inch in thickness, the second size shall be twenty four or twenty seven inches in length, five inches in breadth, and half an inch in thickness, and the third size shall be thirty six inches in length, five and a half inches in breadth, and five eighths of an inch in thickness, to be made of good sound rifted timber, to be packed in good bundles, each length in separate bundles in good frames securely wedged, and containing not less than five hundred shingles in each bundle; and if any inspector upon inspection shall find that they are conformable to the dimensions of either size, he shall brand his name at full length, on the frame piece of each bundle, with the number and quality of the shingles contained therein, and no other.—

Sap lum-
ber.

Size of
shingles.

Shingles in
certain
counties.

And be it further enacted, That no shingles shall be exported from either of the counties of Albany, Saratoga — Rensselaer or Green, until they shall have undergone inspection and been admitted and marked in

manner aforesaid, and if any person shall export by water any shingles from either of the counties aforesaid, without being previously inspected or branded as aforesaid, he shall forfeit for every bundle the sum of one dollar, to be recovered with costs of suit by any person who shall sue for the same in any court having cognizance of the same, one half to the person so suing, and the other half to the use of the poor of the town in which such recovery shall be had.—

And be it further enacted That if any person shall ship on board any ship or vessel for exportation out of this State, any boards, plank, scantling timber or shingles, but what has been inspected by one of the inspectors aforesaid he shall forfeit and pay for every thousand feet so shipped without inspection, the sum of two dollars and fifty cents, and for every thousand shingles, the sum of one dollar and twenty five cents; and the master of any ship or vessel, who shall receive on board his vessel any boards, plank timber or shingles, but what has been inspected by one of the inspectors shall forfeit and pay for every thousand feet so taken on board the sum of one dollar and twenty five cents; and for every thousand shingles the sum of sixty two and an half cents; all which forfeitures, shall be recovered with costs in the manner and for the uses aforesaid.

Penalty for shipping uninspected lumber.

And be it further enacted That no inspector of lumber shall appoint any deputy, to purchase any lumber except for his own use, nor sell any lumber whatsoever on pain of forfeiting his office.—

Forfeiture of office.

And be it further enacted, That the said inspectors shall be entitled to receive as a compensation for inspecting all boards, plank and scantling at the rate of thirty seven and an half cents for every thousand feet, superficial measure, except that in the city of New York they shall be entitled to receive only at the rate of twenty five cents for every thousand feet superficial measure; and that all the said inspectors shall be entitled to receive for square timber at the rate of fourteen cents per ton, consisting of forty cubical feet; and for shingles at the rate of twenty cents for every bundle, the one half to be paid by the buyer, and the other half by the seller—

Fees of inspectors.

CHAP. 60.

AN ACT regulating certain proceedings in criminal cases.

PASSED the 21st of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly That in all cases of treason or felony, where the party indicted, shall, on being arraigned, obstinately stand mute, or refuse to plead, and be tried in due course of law, such obstinately standing mute, or refusal to plead and be tried as aforesaid, shall be adjudged to be a denial of the facts charged in the indictment, and the trial shall thereupon proceed in like manner, and the record shall be in the same form, and the same judgment shall be given against the said party, if found guilty, as if such party on being arraigned had pleaded not guilty.

Refusal to plead deemed a denial of the facts charged.

And be it further enacted, That it shall not be necessary on the arraignment or trial of any person, for treason or felony, to ask the prisoner how he will be tried, nor to charge the jury to inquire whether the prisoner fled or not, or what goods or chattels, lands and tenements the prisoner at any time had.—

Certain inquiries not to be made.

Convictions, except for treason, not to work forfeiture.

And be it further enacted, That no conviction or attainder of any person for any offence specified in the act entitled "An act declaring the crimes punishable with death or with imprisonment in the State prison," except treason, shall hereafter work a forfeiture of goods, chattels, lands, tenements, or hereditaments, or of any right therein, and that all forfeitures to the people of this State in the nature of deodands, and in cases of suicide, and where any person shall flee from justice, shall be and hereby are abolished.—

Benefit of clergy abolished.

And be it further enacted, That the privilege or benefit of clergy formerly allowed in criminal cases shall be forever abolished.—

Where person dies of stroke or poison administered in another county.

And be it further enacted That where any person hereafter shall be feloniously stricken or poisoned in one county, and die of the same stroke or poisoning in another county, then an indictment thereof found by jurors of the county where the death shall happen, whether it shall be found before the coroner upon the sight of such dead body, or before the justices of the peace, or other justices or commissioners who shall have authority to enquire of such offence, shall be as valid in law as if the stroke or poisoning had been given in the same county where the party shall die; *and further* that the courts of oyer and terminer and gaol delivery in the same county, where such indictment at any time hereafter shall be taken, and the justices of the supreme court when such indictment shall be taken or removed before them, shall proceed upon the same in all points as they ought to do in case such felonious stroke or poisoning, and death thereby ensuing, had happened in one and the same county. *And further* that where any murder or felony shall be committed in one county, and any other person shall be accessory in any manner to any such murder or felony in any other county, then an indictment found against such accessory for the same at any court of oyer and terminer and gaol delivery, or general sessions of the peace, in the county where such offence of accessory shall be committed, shall be as good and effectual as if the said principal offence had been committed within the same county where the same indictment against such accessory shall be found, and the courts of oyer and terminer and gaol delivery in the county where the offence of any such accessory so indicted shall be committed, shall upon a certificate that the principal is attainted, convicted, or otherwise discharged of the principal felony to be given under the hand and seal of the clerk who has the custody of the records of the same (and which certificate such clerk is hereby required to give on application in writing from either of the judges of the said courts) proceed to try every such accessory in the county where the offence of such accessory was committed, in like manner, as if the principal offence and accessory had been committed in such county, and thereupon to give judgment and award execution according to law.—

And be it further enacted That if any principal felon shall be convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding any such principal felon shall be pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he be convicted, as he should have suffered if the principal had been attainted; *and further*, that it shall be lawful to prosecute and punish every person buying or receiving any stolen goods knowing the same to be stolen, as for a misdemeanor, although the principal felon be not convicted of the said felony, which shall exempt the offender from being punished as accessory to such felony after the fact, if the principal shall be afterwards convicted. —

Pardon of principal not to affect accessory.

Receiving stolen goods.

And be it further enacted That the justices of the supreme court shall have full power, by their discretion to remand and send down as well the bodies of all felons brought or removed into the supreme court, as the indictments against such felons into the said counties, where the same felonies were or shall have been committed, and to command all justices of gaol delivery, justices of the peace, and all other justices and commissioners having authority to hear and determine the same felonies, to proceed and determine upon all the aforesaid felons and indictments so removed according to law, in such manner as the same justices of gaol delivery, justices of the peace, or commissioners, or any of them, might have done, if the said prisoners or indictments had never been brought in the supreme court. —

Removal of criminal cases from supreme court.

And be it further enacted That all manner of foreign pleas triable by the country, hereafter to be pleaded by any person arraigned upon any indictment for any treason or felony, shall be forthwith tried before the same justices before whom such person shall be arraigned, and by the same jurors of the same county that shall try the treason, or felony, whereof he, she or they shall be so arraigned, without any further delay, in whatsoever county or place the matter of the same pleas be alleged. —

Trial of foreign pleas.

And be it further enacted, That every person arraigned for any crime punishable with death, or with imprisonment for life, shall be admitted on his trial to a peremptory challenge of twenty jurors and no more. —

Peremptory challenges.

And be it further enacted, That no indictor of any person for any crime or offence whatsoever, shall be put upon the inquest for the trial of such person, if he be challenged for that cause by the person so indicted. —

Indictor not to be on jury.

And be it further enacted, That every person who shall be arraigned or tried for any felony shall be admitted to make any proof that he or she can produce by lawful witnesses who shall then be upon oath, for his or her defence in that behalf, and shall have the like process of the court where he or she shall be tried to compel his or her witnesses to appear for him or her at such trial as is usually granted to compel witnesses to appear against him or her. —

Witnesses for the defense.

And be it further enacted, That from henceforth the words, "with force and arms," or any such words, shall not of necessity be put in any inquisition or indictment of treason, felony, trespass, or any other offence, and that no party, being hereafter indicted of any offence, shall take any advantage by writ of error, plea or otherwise, to annul or avoid any such inquisition or indictment because the words "with force and arms," or any such like words are not put into the said inquisition or indictment.

Form of inquisition or indictment.

And be it further enacted, That if any felon do rob or take away any money, goods or chattels, from any person, and the said felon be thereof indicted and found guilty or otherwise attainted, by reason of evidence given by the owner of the said money, goods or chattels so robbed or taken away, or by any other by his procurement, then such owner shall be restored to his money, goods or chattels, and the court before whom the felon shall be so convicted, may award writs of restitution for the said money, goods or chattels. —

Reservation of stolen property to the owner.

And be it further enacted That every person who shall be lawfully committed to the common gaol in any city or county of this State, for any crime or misdemeanor, having means thereto, shall bear his or her own reasonable charges, for conveying him or her to the said gaol, and the charges also of such as shall be appointed to guard him or her to the said gaol, and shall guard him or her thither; and if any such person so

Prisoners to bear expense of conveyance to jail and guard while there

to be committed as aforesaid, shall refuse at the time of his or her commitment and sending to the said gaol to defray the said charges, or shall not then pay or bear the same, then any justice of the peace of the county shall by writing under his hand and seal, after conviction of the person so committed, give warrant to any constable of the town where such person so committed shall inhabit, or where he shall have any goods within the same city or county, to levy, by distress and sale of the goods and chattels of the said person so to be committed, so much money as, by the discretion of the said justice, shall pay the charges of his or her conveying and sending to gaol, and when any person, not having goods or money within the city or county where he or she shall be taken, sufficient to bear the charges of himself or herself, and of those who convey him or her, is lawfully committed to gaol, then on application by any constable or other officer who conveyed him or her to gaol as aforesaid to any justice of the peace for the same city or county, the justice shall upon oath examine into and ascertain the reasonable allowances to be made to such constable or other officer, both for his expences and trouble, the said allowances for trouble not to exceed six cents for each mile that he shall travel to convey the said offender to gaol as aforesaid; and the said justice shall forthwith without fee or reward, by warrant under his hand and seal, order the treasurer of the city or county to pay the same, which the said treasurer is hereby required to do as soon as he receives such warrant and shall have monies in his hands.—

Prosecutor
may be
repaid ex-
pences of
prosecu-
tion.

And be it further enacted, That it shall be in the power of the court before whom any person shall have been tried and convicted of any larceny, or other felony, at the prayer of the prosecutor, and on consideration of his circumstances, in open court, to order the treasurer of the city or county in which the offence shall have been committed, to pay unto such prosecutor such sum of money as to the same court shall seem reasonable, not exceeding the expences which it shall appear to the court the prosecutor was put unto, in carrying on such prosecution, and making him a reasonable allowance for his time and trouble therein, and that when any poor person shall appear on recognizance in any court to give evidence against another accused of any larceny, or other felony, it shall be in the power of the court at the prayer and on the oath of such person, and on consideration of his circumstances in open court to order the treasurer of the city or county in which the offence shall have been committed, to pay such sum of money as to the said court shall seem reasonable for his time trouble and expence; which order, in either case, the clerk of such court is hereby directed forthwith to make out and deliver to such prosecutor, upon being paid for the same the sum of twelve and an half cents and no more; and to such poor witness without fee or reward; and the treasurer of such city or county is hereby required, upon sight of any such order, or as soon after as he shall have monies sufficient in his hands forthwith to pay to such prosecutor or witness, or other person authorised to receive the same such sum of money so ordered to be paid as aforesaid.

Supervis-
ors to raise
moneys to
pay court
orders.

And be it further enacted That the treasurer of each city and county shall be allowed in his accounts all such sums as he shall pay upon any such order as aforesaid, which sums shall be considered as part of the contingent charges of such city or county; and, that the several treasurers may be enabled to comply with such orders, the supervisors of the several counties are hereby required to cause a sum, sufficient for the purposes aforesaid, to be raised, levied and collected in their respective

counties yearly, in the same manner as the contingent charges of the same counties are to be raised levied and collected.—

And be it further enacted That when any person shall be convicted of, and fined for any crime or misdemeanor: the court may in their discretion allow such expences to witnesses and prosecutors, out of the same fine, as such court shall judge reasonable, not exceeding the sum of twenty five dollars; and shall cause an entry thereof to be made in the minutes of the court, and the clerk in the estreat thereof shall mention the same, in order that the court of exchequer may know how much of the said fine is to be answered to the people of this State, and when such fine is paid to the sheriff or other officer, he shall pay such expences so allowed out of the same.

Allowances
out of fines

And be it further enacted That in all cases where a person shall, on the complaint of another, be bound by recognizance to appear or shall for want of surety be committed, or shall be indicted for an assault and battery, or other misdemeanor, the injury and damage of the party complaining, and not charged to have been done riotously, or with intent to commit a felony, or not being an infamous crime, and for which there shall also be a remedy by civil action, if the party complaining shall appear before the magistrate who may have taken the recognizance, or made the commitment, or before the court in which the indictment shall be, and acknowledge to have received satisfaction for such injury and damage, it shall be lawful for the magistrate, in his discretion, to discharge the recognizance or supersede the commitment, and also to discharge the recognizance which may have been taken for the appearance of witnesses in such case; or for the court also, in their discretion, to order a noli prosequi to be entered on the indictment, as the case may require upon payment of costs; *provided always* that this act shall not extend to any assault and battery or other misdemeanor committed by or on any officer or minister of justice.—

Settlement
between
parties in
case of
certain
offenses.

And be it further enacted, That in all cases of felony heretofore committed or which may hereafter be committed, it shall and may be lawful for any person or persons injured or agrieved by such felony, to have and maintain his, her or their action against the person or persons guilty of such felony, in like manner as if the offence committed had not been felonious, and in no case whatever shall the right of action of the party injured be deemed, taken or adjudged to be merged in the felony or in any matter affected thereby.

Right of
civil action
against
felon.

And be it further enacted. That all appeals of felony shall be and hereby are abolished.—

Appeals of
felony
abolished.

CHAP. 61.

AN ACT for regulating elections.

PASSED the 24th of March, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That all elections for governor, lieutenant governor, senators and members of assembly shall be by ballot, and that such elections shall be held in the cities of New York, Albany and Schenectady by wards, and in all other parts of this State by towns, and that the last Tuesday of April in every year, shall be the anniversary day on which such elections shall be held, and from which the same shall be

When
State elec-
tions to be
held.

continued by adjournment from day to day for three days successively including the first.

Inspectors
of election.

And be it further enacted, That the supervisors, assessors and town clerks of the several towns in this State, or a majority of them actually in office, shall from time to time, be the inspectors of such elections in their respective towns, and that in the cities of New York Albany and Schenectady such inspectors shall be appointed by the common council of said cities respectively at their usual place of meeting in each of the said cities, on the first Tuesday of April in every year, who, then and there, shall by plurality of voices, elect from among the substantial freeholders actually resident in each ward of the said cities, three persons for inspectors of such election, then next to be holden in such ward.

Notices by
clerk of
senate to
sheriff of
officers to
be elected;
duty of
sheriff.

And be it further enacted, That the clerk of the senate shall annually between the first days of January and March inclose and send in writing under his hand, to each of the sheriffs of the different counties of this State, a notification of the names of the senators, for the district to which such county shall belong, whose seats will become vacant on the first Monday of July thereafter, and of the names of those, if any, whose seats may have become vacant by death or otherwise, and of the number of senators to be elected in such district at the then ensuing election, and also that a governor and lieutenant governor; or a lieutenant governor only (as the case may require) is or are then to be chosen; and in case any vacancy shall happen in the office of any senator, on or after the said first day of March and before the fifteenth day of April in any year, then the said clerk shall immediately thereafter give the like notification of the name of every senator whose seat shall so become vacant. And in case of the death, inability or removal of such clerk out of this State, it shall be the duty of the secretary of this State to make and send such notifications and each sheriff shall without delay transmit a copy of such notification to one of the inspectors in each town or ward in his county, and also affix a copy thereof on the door of the court house in his county.

Notice by
inspectors
of time and
place of
election;
oath.

And be it further enacted, That each inspector upon receiving such notification shall immediately give notice thereof to the other inspectors of his town or ward, and the said inspectors or a majority of them, shall without delay convene together, and by writing under their hands to be fixed up in at least five of the most public places of such town or ward, give eight days notice of the time and place, or the times and places, which to them shall appear most convenient, for the electors within the same at which such election for governor, lieutenant governor, senators and members of assembly or any of them shall be held; and at the time and place of opening such election the said inspectors shall publicly administer to each other, and severally take the following oath viz., "I do solemnly and sincerely swear and declare, in the presence of Almighty God, that I will in all things well, faithfully, honestly and impartially, and according to the best of my knowledge and abilities execute the office of inspector of this election, and that I will faithfully and impartially canvass and estimate the ballots taken at the same election and certify a true and just statement of the same, according to my best understanding, and that if I shall discover any of the other persons who shall attend with me for the purpose aforesaid, conducting himself or themselves partially, unduly or corruptly in the premises, that I will divulge or discover the same, to the end that the person so offending may be brought to justice;" *and further* that in each town or ward the inspectors shall appoint two or more competent clerks of such election,

Poll clerks.

each of whom shall keep a poll list of the same, under the direction of the inspectors, and take the following oath, to be administered by the said inspectors, to wit, "I do solemnly and sincerely declare and swear in the presence of Almighty God, that I will faithfully, truly, honestly and impartially enter and keep the poll lists at this election; and in all things will faithfully, truly honestly and impartially, according to the best of my knowledge and abilities do, perform and fulfill my duty as a clerk thereof;" and the said inspectors shall preside at such election, and conduct and direct the same according to the regulations of this act, and be the returning officers thereof, in manner hereinafter directed; and the inspectors and clerks being sworn as aforesaid, the said inspectors shall cause proclamation to be three times made as follows, vizt., "Hear ye! Hear ye! Hear ye! The poll of this election is opened, and all manner of persons attending the same are strictly charged and commanded by the authority and in the name of the people of this State, to keep the peace thereof, during their attendance at this election, upon pain of imprisonment;" which proclamation shall be repeated at every subsequent opening of the poll after an adjournment thereof, and proclamation of every such adjournment, and of the closing thereof, shall also in like manner be made; *provided always*, that the proclamation by which the same shall be closed, shall be preceded three hours before by a proclamation notifying that the same will be so closed; and the poll of every such election shall be open in the day time only, between the rising and setting of the sun.

Proclamation.

And be it further enacted, That the poll lists for governor, lieutenant governor and senators or such of them as shall be to be chosen, at any such election, shall be kept distinct and separate from those for members of assembly; and that no person shall vote at any such election, except in the town or ward in which he shall actually reside.

Poll lists; persons to vote only in town or ward of residence.

And be it further enacted, That the mode of conducting every such election shall be as follows; every person who shall be qualified according to the constitution of this State, and this act, and offer himself to vote for governor, lieutenant governor or senators, shall at such election openly deliver his ballot for governor, lieutenant governor and senators or such of them as shall be then to be chosen, to one of the inspectors, who shall receive the same in the presence of the other inspectors, which ballot shall be a paper ticket, containing the name of a person for governor, and the name of a person for lieutenant governor, and the names of so many persons for senators as shall be then to be chosen in that district wherein the elector shall reside, or such and so many of them respectively as are then to be chosen, and such elector shall think proper to vote for, severally written upon the same paper ticket, and distinguishing who is voted for as governor or lieutenant-governor, when they or either of them are to be chosen, and who are voted for as senators, and the said paper ticket shall be so folded or closed as to conceal the writing thereon. And on receipt of every ballot or ticket for governor, lieutenant governor and senators, or any of them, the inspectors shall cause the name of the elector to be entered in the books or poll lists for governor, lieutenant governor and senators or such of them as are then to be chosen, by all the clerks, and shall cause the ballot without suffering the same to be inspected, to be put into a box to be provided for the purpose of receiving the ballots for governor lieutenant governor and senators, or such of them, as are then to be chosen, with a sufficient lock thereto; and which box shall be locked, and the key thereof kept during the election by one of the inspectors attending such election, to be appointed for the purpose by the major

Mode of conducting election.

part of them, and a small hole shall be made in the lid or cover of the box, sufficient only to receive each ballot, and through which all the ballots shall be put into the box; and which box shall only be opened at the times hereinafter mentioned. *And further*, that every person who shall be qualified according to the constitution of this State, and this act, and offer himself to vote for members of assembly, shall at such election openly deliver his ballot for members of assembly, to one of the inspectors, who shall receive the same in the presence of the other inspectors, which ballot shall also be a paper ticket containing the names of as many persons for members of assembly as are then to be chosen for the county wherein such elector shall then reside, or so many of them as such elector shall think proper to vote for, severally written up on the same paper ticket, and the said paper ticket shall be so folded or closed as to conceal the writing thereon; and on receipt of every ballot or ticket for members of assembly the inspector shall cause the name of the elector to be written in the books or poll lists, for members of assembly, by all the clerks, and shall cause the ballot, without suffering the same to be inspected to be put into a box to be provided for the purpose of receiving the ballots for members of assembly with a sufficient lock thereto, which shall be locked, kept and disposed of in the same manner as the box for receiving the ballots for governor, lieutenant governor and senators above mentioned; *and further* that on every adjournment of the poll, all the clerk's books or poll lists shall be carefully compared in the presence of the inspectors, and any mistakes in either of them, shall be corrected according to the judgment of a major part of the inspectors; whereupon the boxes shall be opened, the proper books or poll lists put into them respectively, and the boxes then locked, with the books or poll lists therein, and the keys delivered to such one of the inspectors as the majority of them shall appoint; and the seal or seals of one or more of the inspectors shall be put upon the said boxes, so as to cover the holes in the lids thereof; and the boxes shall then be delivered to such other of the inspectors attending such election, as a majority of them shall direct, who shall carefully keep the same, and shall without suffering the same to be opened, or the said seal or seals to be broken or removed, deliver the same boxes in at the election table, at the next opening of the poll in the presence of all the spectators attending on the said election; when and where the seals shall be broken, and the boxes opened, and the poll books or lists taken out, and the boxes again locked, in order to proceed in the said election, which course shall be observed and pursued until the poll be closed.

Oaths to be
taken by
persons
challenged

And be it further enacted, That whenever any person shall present himself to give his vote or ballot at any such election, as a freeholder qualified by the constitution of this State to vote for a governor or lieutenant governor, and either of the inspectors shall suspect or any other person entitled to vote at the same in such town or ward shall challenge him to be unqualified for the purpose, the inspectors shall tender and administer to him the following oath, to wit, "I do solemnly and sincerely swear and declare, in the presence of Almighty God, that I am possessed of a freehold in my own right, or in the right of my wife (as the case may be) of the value of two hundred and fifty dollars within this State, over and above all debts charged thereon; and that I am an actual resident of the town or ward of _____, in the county of _____ (as the case may be) and have not been before polled in any part of this State, at this election." And that whenever any person shall present himself to give his vote for senators, and either of the inspectors shall suspect, or any person entitled to vote at the same

election in such town or ward shall challenge him to be unqualified for the purpose, the inspectors shall tender and administer to him the following oath, to wit, "I , do solemnly and sincerely swear and declare in the presence of Almighty God, that I am possessed of a freehold in my own right, or in the right of my wife (as the case may be) of the value of two hundred and fifty dollars within the county of , in the district (as designated by the constitution of this State) over and above all debts charged thereon; and that I am an actual resident of the ward or town of in this county (as the case may be) and have not been before polled in any part of this State, at this election." And that whenever any one shall present himself to give his vote or ballot for members of assembly only, and either of the said inspectors shall suspect, or any person entitled to vote for members of assembly in the same town or ward shall challenge him to be unqualified for the purpose, the inspectors shall tender and administer to him the following oath, viz., "I do solemnly and sincerely swear and declare, in the presence of Almighty God, that I am, and have been for six months next and immediately preceding this election, a freeholder, and possessed of a freehold in my own right, or in my wives right (as the case may be) of the value of fifty dollars in the county of ; or have for six months next and immediately preceding this election rented a tenement of the yearly value of five dollars within the county of , and have been rated and actually paid taxes to this State; and that I am now an actual resident of the ward or town of , (as the case may be) and that I have not been polled before in any part of the said county at this election." And in case any elector shall refuse to take the said oaths respectively when so tendered to him, he shall lose his vote at such election; *provided nevertheless*, that nothing herein contained shall be construed to deprive the persons who were freemen of the city of New York on the fourteenth day of October, in the year of our Lord one thousand seven hundred and seventy five; or freemen of the city of Albany on the twentieth day of April, in the year of our Lord one thousand seven hundred and seventy seven, and who shall be actually and usually resident in the said cities respectively, and who may refuse to take the oath last above contained, of the right of voting for members of assembly in the said cities, reserved to them by the seventh article of the constitution of this State; *and provided also*, that whenever any one shall present himself to give his vote or ballot as a freeman of the said city of New York or city of Albany, for members of assembly, and either of the inspectors shall suspect him to be unqualified for the purpose, they shall tender to him the following oath, to wit, "I do solemnly and sincerely swear and declare, in the presence of Almighty God, that I now am, and was a freeman of the city of New York, before the fifteenth day of October in the year of our Lord one thousand seven hundred and seventy five, or a freeman of the city of Albany, before the twenty first day of April in the year of our Lord one thousand seven hundred and seventy seven (as the case may be) and that I now am an actual resident in ward of the city of New York, or Albany (as the case may be) and that I have not before been polled at this election, in any part of this State." And in case such elector shall refuse to take such oath, he shall lose his vote at the said election.

And be it further enacted, That at every such election the inspectors shall tender and administer to each elector, presenting himself to vote at such election if any of them shall suspect that such elector is not, or if any person entitled to vote at such election in the same ward or town, Id.; challenge as not being well affected to the

govern-
ment.

shall challenge such elector not to be well affected to the government of this State, the following oath, to wit, "I do solemnly, without any mental reservation or equivocation whatsoever, swear and declare, and call God to witness, that I do abjure and renounce all allegiance and subjection to the king of Great Britain, and to all and every other foreign king, prince, potentate and State whatsoever, and that I will bear true faith and allegiance to the State of New York, as a free and independent State; and that I will, in all things, to the best of my knowledge and ability, do my duty as a good and faithful citizen of the said State ought to do." And if any elector shall refuse to take the said oath, he shall not be permitted to vote at such election. And if at any such election an inspector shall receive the vote or ballot of any elector, who upon being tendered the said oath, shall refuse to take the same, such inspector shall for each offence, forfeit the sum of twelve dollars and fifty cents to any person who will sue for the same, to be recovered with costs; and further the said inspectors are hereby required to administer the said oath to any elector who shall voluntarily offer to take the same.

Canvass of
ballots by
inspectors;
transmis-
sion of re-
turns.

And be it further enacted, That after finally closing the poll of any such election, the inspectors of the several towns and wards, shall proceed without delay publickly to open the boxes containing the said ballots, and first count the said ballots unopened, and if the number of ballots in any of the said boxes shall exceed the number of electors contained in the poll lists respectively, the said inspectors shall draw out and destroy unopened, so many of the said ballots, as shall amount to the excess, and such numbers agreeing, or being so made to agree, the said inspectors shall proceed to canvass and estimate the said ballots; and if two or more ballots are found folded or rolled up together, none of the ballots so folded or rolled shall be estimated, and the said inspectors shall complete the said canvass and estimate on the day subsequent to the closing the poll or sooner, and thereupon shall set down in writing the names of the several candidates voted for at any such election, either as governor, lieutenant governor or senators, with the number of votes in words at full length, given for any such candidate at any such election for either of the said offices, and shall certify and subscribe their own proper names thereto, and by one of their number to be appointed for that purpose by a majority of them, shall within eight days thereafter cause such statement or certificate to be delivered to the clerk of the county in which such ballots shall be taken, and a like certificate subscribed as aforesaid to the clerk of the town in which such ballots shall be taken, to be by him entered of record in a book to be by him provided for that purpose; and the clerk of such county shall enter of record in a book to be by him provided for that purpose such statement or certificate so delivered him as aforesaid, and shall within twenty days thereafter deliver a transcript certified by him of all such certificates so by him received, or cause the same to be delivered to the secretary of this State, by a special messenger to be by him appointed for the purpose; to which messenger the clerk shall administer the following oath, to wit, "I do solemnly and sincerely swear and declare in the presence of Almighty God, that I will faithfully to the best of my ability, and without delay, deliver in at the secretary's office all such certificates of the election of the county of _____ as shall be delivered to me by the clerk of said county for that purpose;" and for which service the said clerk or messenger shall be paid at the rate of twenty five cents for each mile in going only, to be computed from such clerks office to the secretary's office, and to be paid out of the treasury of this State on the war-

rant of the comptroller: And the inspectors on closing the poll at any such election as aforesaid, shall proceed in like manner, without delay, to canvass and estimate the ballots given for every person as member of assembly at such election; and after making such canvass and estimate, shall set down the names of every such candidate, with the number of votes given for each candidate, in words at full length, and after certifying and subscribing their proper names thereto, shall within twelve days after cause such statement or certificate of such canvass or estimate to be delivered as aforesaid to the clerk of the county, and a like statement or certificate to the clerk of the town in which such ballots shall be taken, to be by them respectively entered of record as aforesaid, in books by them to be provided as aforesaid; and the clerk of such county shall without delay, after the day appointed for delivering to him such certificate as aforesaid shall have elapsed, calculate and ascertain the aggregate amount or whole number of votes given for the respective candidates voted for as members of assembly at any such election, and shall thereupon determine conformable to such statements or certificates delivered him as aforesaid upon the person or persons duly elected by the greatest number of votes as members of assembly for such county; and shall after entering such determination of record, cause to be delivered to each of the persons so found to be elected as members of assembly, a brief certificate of such election; and the respective clerks of counties shall exhibit their accounts for services performed, and expences incurred by virtue of this act, except such as are herein before provided for, to the supervisors of their respective counties, who shall examine, audit and allow the same, and cause the amount thereof to be levied, collected and paid in the same manner as the other contingent charges of such counties are by law directed to be levied, collected and paid; and further, that immediately upon the said inspectors at any such election making and subscribing such statement or certificate as aforesaid, they shall destroy all the poll books and ballots made and taken at any such election.

Duty of
county
clerk.

And be it further enacted, That if any person shall be guilty of any disorderly conduct at any such election, or during the time of the canvass and estimate aforesaid, or of using indirect sinister or corrupt means to influence any elector or electors in giving in his or their ballots, the major part of the inspectors at such election are hereby authorised and required to commit the offender to the gaol of the county, there to remain for a space not exceeding thirty days, and all sheriffs, under-sheriffs, constables and gaolers, are hereby strictly charged and required to aid and obey the inspectors therein.

Disorderly
conduct
and cor-
ruption.

And be it further enacted, That the secretary of this State shall without delay, after receiving such transcripts from the clerks of the respective counties in this State, enter the same of record in his office, and on or before the eighth day of June in the same year, in conjunction with the comptroller and treasurer of this State, whose duty it shall be to give their attendance at the secretary's office, on a day to be notified to them for that purpose by such secretary, proceed to calculate and ascertain the aggregate amount or whole number of votes given at such election for governor, lieutenant governor or for senators; and the said secretary, comptroller and treasurer shall thereupon and within six days after such meeting, determine conformable to such transcripts, the persons duly elected by the greatest number of votes to either of the said offices, and without delay make and subscribe with their proper names and hand writing, a certificate of such determination, and enter the same in a book to be kept for that purpose in the secretary's office, and without delay cause to be delivered a true copy thereof so subscribed

Duty of
secretary
of State.

as aforesaid to each of the persons so elected, and to the person administering the government of this State, and shall also cause such certificate to be published in one of the public news-papers printed in each of the great senatorial districts of this State, with a statement subjoined thereto and subscribed by the said secretary, comptroller and treasurer, of the votes given for every person voted for at such election in the several counties of this State, for any of the said offices, as by the said transcripts, returned by the clerks of the said counties respectively may appear.

Justices of
supreme
court,
when to
attend as
canvassers.

And be it further enacted, That if either the said secretary, comptroller or treasurer shall neglect, or by death or otherwise be prevented from discharging the duties enjoined on them by this act, then it shall be lawful for the other two of the said officers to perform the same; and if any two of the said officers shall neglect or be prevented as aforesaid from discharging the said duties, in that case, it shall be lawful for any two of the justices of the supreme court of judicature of this State, and they are hereby required, on notice to be given them for that purpose by the person administering the government of this State, to attend without delay at the said secretaries office, and in conjunction with either the said secretary, comptroller or treasurer, who may convene with them for that purpose to do and perform the respective duties enjoined upon the secretary, comptroller and treasurer of this State, by virtue of this act, and all questions which may arise in the canvass, estimate or calculation of the votes given at any such election under this act, shall be determined by the opinion of a majority of the persons composing the board of canvass, estimate or calculation as the case may be; and the said secretary, comptroller, treasurer or justices of the supreme court, as the case may be, shall before they enter upon the said duties enjoined upon them, severally take and subscribe before one of the justices of the said supreme court, or a master in chancery, an oath, that he will in all things faithfully, honestly and impartially discharge the duties enjoined upon him by the act, entitled "An act for regulating elections," which said oath shall be entered of record in the secretary's office.

Senator
chosen for
vacancy.

And be it further enacted, That when a senator is to be chosen at any election, in the room of one dead, or removed from office it shall not be necessary for any elector to designate on his ballot who he votes for as senator in the room of the person deceased or removed from office, but the person who shall have the greatest number of votes for senator shall be considered as elected for the longest time, and so successively 'till each vacancy be filled without regarding any designation, or the order of placing the names of the persons voted for, upon any of the ballots taken at such election.

When off-
cers elected
to take
office.

And be it further enacted, That the governor and lieutenant governor so elected, having respectively taken their oaths of office, shall enter upon the execution of their offices on the first day of July next after their election, and the senators and members of assembly so elected shall give their attendance and take their respective seats in senate and assembly on the first Monday of July after their election or the next meeting of the legislature thereafter.

Who
deemed
free-
holders.

And be it further enacted, That every mortgagor while he continues in the occupation of the premises mortgaged, and every mortgagee of a real estate to him and his heirs after he obtains possession of the mortgaged premises, and every person possessed of a freehold in right of his wife, shall be deemed and esteemed a freeholder within the meaning of this act; but that no person under the age of twenty one years, nor any

one not being a citizen of this State, or of the United States, or of one of them, shall have a right to vote at any such election.

And be it further enacted, That if the said secretary, comptroller, or treasurer, or any justice of the supreme court, or any clerk or sheriff of any of the counties of this State, or any of the said inspectors shall be guilty of any wilful neglect of the duties required of them by this act, or of any partial or corrupt conduct in the execution of the same, and be thereof convicted every of them so offending and convicted, shall forfeit and pay for every such offence the sum of five hundred dollars to be recovered by action of debt, or by information in any court of record; the one moiety thereof to the use of any person who shall prosecute for the same and the other moiety thereof to the use of the people of this State. And if the prosecutor in any such suit shall prevail, he shall likewise recover his costs of suit against the person convicted. But if the person so proceeded against shall be acquitted, he shall recover double costs against the prosecutor; and no process shall issue to bring in the party accused, until bond be filed in the office of the clerk of the court, out of which such process shall issue, in the penalty of five hundred dollars, with two sufficient freeholders as sureties, such as the court shall approve, to secure the defendant double costs, to become due on a discontinuance, withdrawing of the suit, or an acquittal, or neglect to bring the same to trial within five terms after the appearance of the defendant to answer the same. *And further* that every person so convicted shall also suffer the same pains and penalties as in cases of wilful and corrupt perjury, and shall from and after such conviction be utterly disqualified to hold or enjoy any place or office in this State.

Penalty for neglect or corrupt conduct by any officer charged with duty under this act.

And be it further enacted, That whoever shall by bribery, menace or other corrupt means or device whatsoever either directly or indirectly attempt to influence any elector of this State in giving his vote or ballot, or deter him from giving the same, at any election within this State by virtue of this act, and shall thereof be convicted, such person so offending and convicted, shall forfeit and pay for every such offence the sum of one thousand two hundred and fifty dollars to be sued for and recovered by any person and in the manner and under the restrictions above prescribed in actions to be brought for neglect of duty, or corrupt conduct; one moiety of which penalty shall be recovered to the use of the person prosecuting for the same and the other moiety thereof to the use of the people of this State; and on such conviction the person convicted shall forever thereafter be utterly disqualified to hold, exercise or enjoy any office or place or trust or profit within this State.

Penalty for bribery, etc.

And be it further enacted, That no officer or other person shall call out or order any of the militia of this State to appear or exercise on any day, during any election to be held by virtue of this act, or within ten days previous thereto (except in cases of invasion or insurrection) on pain of forfeiting the sum of five hundred dollars for every such offence, to be recovered by any person who will sue for the same, with costs, the one moiety of such penalty to his own use, and the other moiety thereof, to the use of the people of this State.

Militia not to be called out.

And be it further enacted, That it shall not be lawful for any officer or minister of justice to serve any civil process in any city or town in this State, on any person entitled to vote at any election to be held by virtue of this act, between the day preceding such election, and the day subsequent to the closing of the poll thereof in such town or ward.

Service of civil process.

And be it further enacted, That the city of Hudson shall be considered as a town, for all the purposes contemplated by this act.

Hudson city.

CHAP. 62.

AN ACT to prevent injury by dogs.

PASSED the 24th of March, 1801.

Forfeitures
by owner
of dog
which kills
sheep.

Be it enacted, by the, People of the State of New York, represented in Senate and Assembly, That if any dog shall kill or wound any sheep or lamb, the owner or possessor of such dog, shall pay to the owner of such sheep or lamb, the value thereof, to be recovered with costs of suit before any justice of the peace of the county, where such offence shall be committed; and if the owner or possessor of such dog, or of any dog which shall chase or worry any sheep or lamb, shall not, within forty eight hours after notice of any such act, cause such dog to be killed, he shall forfeit the sum of two dollars and fifty cents, and the further sum of one dollar and twenty five cents, for every forty eight hours thereafter until such dog shall be killed, which forfeitures shall be for the use of any person who shall sue for the same, to be recovered with costs of suit, in manner aforesaid, unless it shall appear to the satisfaction of the justice, before whom any suit for the recovery thereof shall be brought, that it was not in the power of the owner or possessor of such dog to kill the same — *and further,* That it shall be lawful for any person who shall see any dog chase, worry or wound any sheep or lamb to kill such dog ; *Provided however,* that nothing herein contained, shall be construed to prevent any shepherd or other person from making use of dogs to drive sheep under his care or owned by him. —

When dan-
gerous dog
to be killed

And be it further enacted, That if any dog shall attack any person peaceably travelling on any high way, or shall attack any horse in any carriage, or on which any person is mounted, and complaint thereof be made to any justice of the peace, if it shall appear to the justice, that such complaint is well founded, and that such dog is dangerous, it shall then be the duty of such justice, to order the owner or possessor of such dog, to kill him, and if he shall not within forty eight hours, after having received such order, cause such dog to be killed, he shall forfeit the sum of two dollars and fifty cents, and the further sum of one dollar and twenty five cents for every forty eight hours thereafter, until such dog be killed, to be recovered and applied in manner aforesaid.

Richmond
county;
special
provisions.

And be it further enacted, That in the county of Richmond, there shall be the following additional provisions, to wit ; the owner or possessor of any dog of three months old, and upwards, kept by any one person or family, shall pay a yearly tax for the same, of twenty five cents, and if more than one dog be so kept, seventy five cents for the second dog, and one dollar and fifty cents for every dog above the number of two; and it shall be lawful for the assessors of each town in the said county, yearly at the time of making their annual assessments, to enter in a book to be kept for that purpose, the name of every person in their respective towns, owning or keeping any dogs, and the number thereof, and it shall be the duty of such assessors to deliver an abstract from the said books, to the collector of each town, with directions for collecting the tax aforesaid on the same, and the said collectors shall collect such tax, and pay the same as herein after directed. —

Recovery
of tax;
killing of
dog.

And be it further enacted, That if the owner or possessor of any one or more dogs, shall neglect or refuse to pay the tax on the same as aforesaid, within twenty days after demand thereof, made by the collector, such collector shall sue for and recover the same with costs before any

justice of the peace of the county, and every person in possession of, or who shall suffer any dog to remain about his house, for the space of twenty days, before demand made by the collector as aforesaid, such person shall be deemed the owner of such dog, and liable to pay the tax for the same, and such person may lawfully kill such dog, if no other person within the said twenty days shall appear to claim him.—

And be it further enacted, That the several collectors aforesaid, may retain out of the money so to be collected, five per cent as a compensation for their trouble, and shall pay the residue thereof to the treasurer of the said county of Richmond, to be disposed of by the supervisors of the said county, by warrant upon the said treasurer, towards satisfying such damages as may arise in any year from dogs killing or injuring sheep, and the residue of the said tax, if any, after such damages are satisfied, shall be paid to the overseers of the poor of the respective towns in the said county, in proportion to the tax so collected in each town, towards the support of the poor thereof. *And further,* if any collector aforesaid, shall neglect or refuse to do any thing herein before required of him to do, he shall for every offence forfeit and pay the sum of twelve dollars and fifty cents, to be recovered by action of debt, with costs, before any justice of the peace of the said county, by any person who shall sue for the same, the one half when recovered to belong to the prosecutor, and the other half to be applied to the uses aforesaid.—

Fees of collectors: how money to be applied.

And be it further enacted, That when any person within the said county of Richmond, shall sustain any damage by any dog, by killing or hurting any sheep belonging to him, he may apply to any two fence viewers of the town in which he resides, and if it shall appear to their satisfaction, on view of the sheep, that the same was killed or hurt by one or more dogs only, they shall so certify in writing, and also the value of the sheep or damage sustained, and the number killed or hurt, which certificate signed by them shall be a sufficient voucher to the supervisors of the said county, for paying the value of the sheep, or damages therein expressed; *provided however,* that if the owner or possessor of any such dog be known, the party injured shall demand satisfaction of him, and if he neglect or refuse to kill such dog, and to make such satisfaction, the party injured shall get the value of the sheep or damages certified as aforesaid, and may thereupon recover the same, with costs, of suit, of the owner or possessor of any such dog, before any justice of the peace of the said county, or other court having cognizance thereof.—

How value of sheep killed to be paid.

And be it further enacted, That if any person shall see any dog chase, worry or wound any sheep it shall be lawful for him to kill every such dog, unless the same be done by permission of the owner of such sheep.—

Dog found worrying sheep to be killed.

CHAP. 63.

AN ACT to regulate the culling of staves and heading.—

PASSED the 24th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That no staves or heading, shall be exported out of this State, to any foreign market, but such as shall be culled by cullers, as herein after directed; that all butt staves shall be made of good white oak timber, and shall be of the following dimensions; the long butts shall be five feet six inches long, the short butts four feet six inches

Regulations concerning staves and heading for exportation.

long, and both at least five inches broad when dressed, clear of sap; two inches thick on the thinnest edge, and not more than two and an half inches thick in any place; and shall be regularly split with the grain of the wood, and free from twist, and to be otherwise good and sufficient; that all pipe staves shall be made of good white oak timber, and shall be four feet six inches long, and shall work three inches broad, when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than six worm holes, and be otherwise good and sufficient. That all white oak hogshead staves shall be made of good timber, and shall be three feet six inches long, and shall work three inches broad, when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and shall not have more than four worm holes, and be otherwise good and sufficient; that all barrel staves shall be two feet eight inches long, and shall work three and an half inches broad, when dressed, clear of sap, and shall be three quarters of an inch thick on the thin edge, regularly split with the grain of the wood, and not more than four worm holes, and otherwise good and sufficient; that all heading shall be made of good white oak timber, and shall be two feet eight inches long, and shall not be less than six inches broad, clear of sap, three fifths of which shall be fit for middle pieces, and shall not be less than three fourths of an inch thick on the thin edge, and be otherwise good and sufficient; that all red oak hogshead staves shall be three feet six inches long three inches and an half broad, including sap, and shall be three quarters of an inch thick on the thin edge.—

Inspector,
appointment of;
powers and
duties.

And be it further enacted, That the person administering the government of this State, by and with the advice and consent of the council of appointment shall as often as may be necessary, appoint an inspector general of staves and heading, for the city and county New York, who, before he enters on the execution of the duties of his office, shall take and subscribe the following oath or affirmation, before the mayor or recorder of the said city: I do solemnly swear (or affirm) that I will truly, faithfully and impartially, according to the best of my ability, perform the duty of inspector general of staves and heading according to law, without any wilful omission, neglect or delay whatsoever; and the said inspector general is hereby authorised and required, to superintend the cullers of staves and heading within the said city and county, in order that the laws relative thereto may be duly executed; and the said cullers are required to follow such instructions and directions, as they or any of them may receive, from time to time from the said inspector general, in relation to the duties required of them by law, and shall as often as once in every month, make a return to him of the quantity of staves and heading which they cull, and of whom, specifying the different kinds; and the said inspector general is hereby authorized and empowered to displace any of the said cullers, who shall in his opinion act inconsistently with the trust reposed in them, from negligence, incapacity, malpractice or any other cause; and the said inspector general shall appoint some fit person to act in the room of the person so displaced, until the pleasure of the council of appointment be known, and in case any of the said cullers shall die, or resign, the said inspector general shall appoint some fit person to supply the vacancy, until the pleasure of the council of appointment be known; and it shall be the duty of the said inspector general to report to the person administering the government, the name of the culler or cullers, who shall so die, be displaced, or resign, and the name of the person or

persons by him appointed, to supply such vacancy, as soon after as may be; and where any dispute shall arise respecting the culling of staves and heading, such dispute shall be submitted to the said inspector general, whose determination thereon shall be final.—

And be it further enacted, That the person administering the government of this State, by and with the advice and consent of the council of appointment, shall and may appoint eight or more cullers for the city and county of New York; four or more cullers for the city and county of Albany; two or more cullers for the city of Hudson, and as many in the other counties in this State as shall appear from time to time to be necessary, and the inspector general and cullers already appointed, shall continue in office during the pleasure of the said council.—

Cullers to be appointed.

And be it further enacted, That each of the cullers to be appointed by virtue of this act, shall take the following oath before some person, authorized to administer the same vizt. "I do solemnly swear that I will, well, faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office of a culler and examiner of staves and heading, according to the true intent and meaning of the laws of this State relative thereto.—

Oath of cullers.

And be it further enacted, That the said inspector general, and the cullers of staves and heading in the city and county of New York, are hereby prohibited from buying or selling, either on their own account, or as agent or factor for any other person, any staves or heading whatever, under the penalty of fifty dollars for each offence, to be sued for, recovered and applied, as hereinafter mentioned. *Provided* that nothing herein contained, shall be construed to prevent the said inspector general or cullers, if they are coopers and actually carry on that business, from buying staves and heading for their own use.

Inspectors and cullers not to deal in staves or heading.

And be it further enacted, That the said inspector general shall be entitled to receive on every thousand merchantable staves, and heading, which shall be culled in the city and county of New York, ten cents, one half to be paid by the buyer, the other half by the seller; and for all such staves or heading as are culled out, and not merchantable, he shall be entitled to receive of the proprietor thereof, the one half of the above mentioned compensation; and the said cullers in the city and county of New York, shall be entitled to receive as a compensation, for culling every thousand pipe staves, the sum of sixty two and an half cents; for every thousand hogshead staves and heading the sum of fifty cents; for every thousand barrel staves the sum of thirty seven and an half cents; for every thousand long butt staves the sum of one dollar and fifty cents; for every thousand short butt staves, the sum of one dollar and twenty five cents, and no more; one half to be paid by the buyer the other half by the seller; and for all such staves or heading as are culled out, and not merchantable, they shall be entitled to receive of the proprietor thereof, the one half of the price of the culling merchantable staves or heading; and the said cullers in the other cities and counties of this State, shall be entitled to receive, as a compensation for culling every thousand pipe staves, the sum of fifty cents; for every thousand hogshead staves and heading, the sum of thirty seven and an half cents; for every thousand barrel staves, the sum of twenty five cents; and for every thousand long butt staves the sum of one dollar and twenty five cents; and for every thousand short butt staves the sum of one dollar, and no more; computing twelve hundred staves or heading to a thousand, one half to be paid by the buyer the other half by the seller; and for all such staves or heading as are culled out, and not merchantable,

Fees of inspectors and cullers

the culler shall be entitled to receive of the proprietor thereof the one half the price of the culling merchantable staves or heading.

How disputes settled.

And be it further enacted, That where any disputes shall arise between the buyer and seller of staves and heading, respecting the culling of the staves by the culler who was employed for the purpose, such dispute shall be submitted to two other cullers of staves or heading; one to be chosen by the buyer and the other by the seller and their determination shall be conclusive.

Power of inspector on suspicion of shipment of unculled staves and heading in New York city.

And be it further enacted, That the said inspector general shall have full power and authority by virtue of this act, and on suspicion, that any staves or heading which have not been culled, or which have been condemned as unmerchantable, shall have been shipped, in any ship or other vessel, for exportation, to enter on board any ship or vessel whatsoever, within any harbour, port or river within the said city and county of New York, to search for any staves or heading, shipped or shipping on board any such vessel, for exportation immediately from thence to any foreign market; and if he can discover any staves or heading shipped on board any such vessel, that have not been culled, by one of the cullers appointed according to law, or shall find on board any staves or heading which have been culled out or condemned, he is hereby required to cause the same to be relanded, and the same shall be and hereby are forfeited, and the proceeds thereof shall be applied as herein after directed; and if any master, owner or consignee of any such vessel, or any other person, shall by threats or violence, prevent the said inspector general, from entering on board any such vessel to make such search, or shall menace or disturb him while on board, and thereby prevent, or attempt to prevent, his performing the duties of his office, every person so offending shall forfeit the sum of fifty dollars, for every such offence, to be recovered by action on the case, in the name of the chamberlain of the city, which when recovered, shall be applied as penalties are to be applied as herein after directed.

Id., of cullers except in New York city.

And be it further enacted, That except in the city and county of New York, the said cullers, and every of them, shall have full power and authority by virtue of this act, and on suspicion that any staves or heading, which have not been culled, or which have been condemned as aforesaid, shall be shipped in any ship or other vessel, for exportation to apply to any justice of the peace, and on oath to assign to such justice, the causes of such suspicion; and if the said justice shall think the said suspicion well grounded, he shall issue his warrant to the said culler or cullers, to enter on board any ship or vessel whatsoever, within any harbour, port or river within the county, of which he is a culler, to search for and make discovery of any staves or heading shipped or shipping on board any such vessel for exportation, immediately from thence to any foreign market; and if the said culler on such search, discover any staves or heading, shipped on board any such vessel, that have not been culled, by one of the cullers appointed by virtue of this act; or shall find on board any staves that have been culled out or condemned, such culler shall apply to one of the nearest justices of the peace; who is hereby required to issue his warrant, directed to some peace officer or officers; commanding him or them to enter on board such vessel, having on board such condemned or uninspected staves or heading, and cause the same to be relanded, and delivered to the owner or owners thereof, upon his or their paying the expence of such search or relanding.

Penalty for illegal shipment.

And be it further enacted, That if any person shall ship on board any vessel for exportation out of this State, any staves or heading, to any foreign market, except such as have been viewed and examined, by

SOME one of the cullers appointed by virtue of this act, in the city, county or town, where such staves or heading were exported from, the master of such vessel, shall forfeit and pay the sum of two dollars and fifty cents for every thousand so taken on board; and the owner or proprietor thereof, the sum of five dollars, for every thousand so shipped on board for exportation; to be recovered with costs of suit, by any person who will prosecute for the same, in any court having cognizance thereof: *And further*, that if any person shall ship on board any ship or vessel for exportation to any foreign market, any staves or heading, that have been condemned; or shall mix the same with any staves or heading that have been culled; every such person, upon due proof thereof, shall forfeit and pay the sum of five dollars, for every thousand condemned staves or heading so shipped on board or mixed; to be recovered in manner aforesaid.—

And be it further enacted, That it shall be the duty of the said inspector general, to make reports annually to the person administering the government of this State, to be laid before the legislature, and in such report he shall set forth whether any, and if any, what amendments are proper to be made to the laws relative to the culling of staves and heading; and likewise what number of the respective kinds of staves and heading have been culled in the city of New York in the year for which the said report may be made.— Reports to be made.

And be it further enacted, That one moiety of the forfeitures to be recovered by virtue of this act, shall be paid to the overseers of the poor in the city or town where the offence shall be committed, for the use of the poor thereof; and the other moiety thereof to such persons as will sue for the same as aforesaid.— How forfeitures applied.

CHAP. 64.

AN ACT for regulating the election of representatives for this State in the house of representatives of the congress of the United States.

PASSED the 24th of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That for the purpose of electing representatives in the house of representatives of the congress of the United States, this State shall be and hereby is divided into ten election districts, which shall be known and numbered as follows: the counties of Suffolk, Queens, Kings, and Richmond, shall compose the first; the city and county of New York, except the seventh ward, shall compose the second; the seventh ward of the said city and the counties of Westchester and Rockland shall compose the third; the counties of Orange, Ulster, Delaware and Greene shall compose the fourth; the county of Dutchess shall compose the fifth; the counties of Columbia and Rensselaer shall compose the sixth; the counties of Saratoga, Washington, Essex and Clinton shall compose the seventh; the city and county of Albany and the county of Schoharie shall compose the eighth; the counties of Montgomery, Herkimer, Oneida and the towns of Cazenovia, Sherburne, Deruyter, Hamilton, Brookfield and Sangerfield in the county of Chenango shall compose the ninth; and the counties of Otsego, Onondaga, Cayuga, Tioga, Ontario, Steuben and the residue of the said county of Chenango shall compose the tenth district. Congressional districts.

When election of congressmen to be held; how conducted.

And be it further enacted, That the next general election for such representatives shall be held on the last Tuesday of April in the year of our Lord one thousand eight hundred and two, and the subsequent general elections for such representatives, on the last Tuesday of April in every second year thereafter, and that at every such election a person who shall have attained the age of twenty five years, and have been seven years a citizen of the United States and who shall then be an inhabitant of this State, shall in each of the said districts be chosen by the inhabitants of such district, qualified to vote for members of the assembly of this State; and the person having the greatest number of votes, in any district shall be the representative chosen therein; and that all such elections shall be notified held and conducted by the same inspectors, and in the same manner, and with the like powers as the election for members of the assembly of this State; and the ballots to be taken at any such election for such representatives shall be canvassed and estimated, certified, returned, and calculated and the result thereof determined in the same manner and by the same persons as is provided with respect to the ballots taken for governor, lieutenant governor and senators, by the act entitled "An act for regulating elections," and the persons who shall so determine the same, shall in like manner, without delay, make and subscribe with their proper names and hand writing, a certificate of such determination and enter the same in a book to be kept for that purpose in the said secretary's office, and deliver or cause to be delivered a true copy of the said certificate, to each of the persons so elected, and another copy thereof subscribed as aforesaid to the house of representatives of congress of the United States, of which such persons shall be elected members, at their first meeting thereafter; and shall also cause a copy of such certificate to be published in one of the news-papers printed in each of the said districts with a statement of the votes given for every person at such election.—

Vacancies, elections to fill.

And be it further enacted, That in case of any vacancy by death or otherwise in the said office of representative, between any of the said general elections, it shall be the duty of the person administering the government of this State, by proclamation to give notice thereof, and therein specify, in which of the said districts the person is to be elected to fill such vacancy, and appoint a day not less than forty nor more than sixty days, from the day of the publication of such proclamation for holding an election in such district, to fill such vacancy, and cause a copy of such proclamation to be delivered to the sheriff of every county belonging wholly or in part to such district; and every such sheriff shall thereupon give notice, in writing, of such election to one of the said inspectors of elections in each town or ward of such district in his county, within eight days after receiving such proclamation; and each of the said inspectors shall immediately give notice thereof to the other inspectors of the same town or ward, and thereupon the inspectors of every such town or ward, or the major part of them, shall without delay convene together, and by writing under their hands to be fixed up in at least five of the most public places in such town or ward give eight days notice of the time and place or times and places, of holding such election, within the same; and at every such election a person qualified as aforesaid shall be elected in such district, to fill such vacancy, by the inhabitants thereof qualified to vote as aforesaid; and such election shall be held and conducted, and the ballots thereof canvassed and estimated, certified, returned and calculated in the same manner, by the same persons, respectively, and within the same time as in the case of a general election for such representatives, and the result thereof shall be

determined in like manner by the same persons after twenty eight and within thirty five days from the day appointed by the proclamation for holding such election, and the like certificate of the person elected, shall be made and subscribed and entered in the said book in the secretary's office and copies thereof delivered and published, with the like statement of the votes, as in the case of a general election of such representatives. —

And be it further enacted, That if any person shall by bribery, menace or other corrupt means, directly or indirectly, attempt to influence any elector in giving his vote or ballot, or attempt to deter him from giving the same at any such election, or if any officer or other person shall call or order any of the militia of this State to appear or exercise at any time during such election, or within ten days before the ordinary and established days of holding such elections (except in cases of invasion or insurrection) or if any person shall be guilty of any partial or corrupt conduct in any of the duties required of him by this act, or shall wilfully neglect or refuse to perform the same, every person so offending shall be liable to the same pains and penalties and incur the same forfeitures as are inflicted in such cases respectively by the act entitled "An act for regulating elections," and to be recovered and applied in the manner therein directed ; *and further,* that it shall not be lawful for any officer or minister of justice to serve any civil process in any city or town on any person entitled to vote at any election to be held by virtue of this act, between the day preceding such election and the day subsequent to the closing of the poll thereof. —

Bribery
and corrupt
conduct.

CHAP. 65.

AN ACT to prevent unjust imprisonment, by securing the benefit of the writ of Habeas Corpus. —

PASSED the 24th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That when any person shall bring any writ of habeas corpus, directed to any sheriff, gaoler, or other person, for any person in his custody, and the writ shall be served upon such officer, or other person, or left at the prison with any under officer of the same, the person on whom the writ shall be so served, or with whom it shall be so left, shall (unless the person so in custody, be committed for treason or felony, plainly and specially expressed in the warrant of commitment) upon payment or tender of charges of bringing the said prisoner, to be ascertained by the court or judge awarding the same, and indorsed on such writ, not exceeding twelve and an half cents per mile, and upon security given by his own bond, to pay the charges of carrying back the prisoner if remanded, and that he will not escape by the way, make return of such writ, and cause to be brought the body of such prisoner before the chancellor or supreme court, or any judge of the same, before whom such writ is returnable according to the command thereof, and certify, the true cause of his imprisonment within three days thereafter, unless the commitment of such person be in a place beyond the distance of twenty miles from the place where such court or person resides ; and if beyond the distance of twenty and not above one hundred miles, then within the space of ten days ; and if beyond the distance of one hundred

Return to
writ of
habeas
corpus.

miles, then within the space of twenty days after delivery of the writ as aforesaid, and not longer. —

Penalty for failure to make return.

And be it further enacted, That if any person whose duty it is made as aforesaid, shall neglect or refuse to make the return, and obey the said writ as aforesaid, according to the command thereof within the respective times aforesaid; or upon demand made by the prisoner, or any one on his behalf, shall refuse to deliver to the person demanding a true copy of the warrant of commitment and detainer of such prisoner, every such person so offending, shall for the first offence, forfeit to the party grieved, two hundred and fifty dollars, and for the second offence five hundred dollars, and shall if an officer, be incapable to hold his said office.

Writs issued in vacation time.

And be it further enacted, That all such writs shall be signed by the person awarding the same, and indorsed with these words "by the statute," and if any person be imprisoned as aforesaid in vacation time, it shall be lawful for every such person (other than persons convict, or in execution by legal process or committed for treason or felony, plainly and specially expressed in the warrant of commitment) to apply in person, or by any one on his behalf to the chancellor, or any judge of the supreme court, and the chancellor or judge to whom application shall be so made shall upon view of a copy of the warrant of commitment, or upon oath that such copy is denied upon request in writing by such prisoner, or by any one on his behalf attested and subscribed by two witnesses, allow an habeas corpus under the seal of the court whereof he shall be chancellor or judge to be directed to the officer or person in whose custody such prisoner shall be returnable immediately before such chancellor or judge; and upon service and return thereof with the prisoner, and cause of his imprisonment as aforesaid before the chancellor or judge allowing the same, and in case of his absence, before any other of them, the chancellor or judge, within two days after the party shall be so brought before him, shall discharge such prisoner on taking his recognizance with one or more sureties, in any sum in his discretion, having regard to the quality of the prisoner, and the nature of the offence, for his appearance at the next court where the offence is properly cognizable, as the case shall require, and shall then certify the said writ with the return thereof and such recognizance into the court where such prisoner shall be bound to appear, or if taken in the city of New York, into the police office of the said city, unless it shall appear unto the said chancellor or judge, that such prisoner is detained upon a legal process out of some court having jurisdiction of criminal matter, or by some warrant under the hand and seal of a judge or justice for some matter or offence, for which by law the prisoner is not bailable: *Provided nevertheless,* that if any such prisoner shall have willfully neglected for two whole terms, after his imprisonment, to pray a habeas corpus for his discharge, in such case he shall not have any habeas corpus to be granted in vacation time in pursuance of this act.

Out of what courts writs may issue; penalty for refusal.

And be it further enacted, That any prisoner as aforesaid, may move for and obtain his habeas corpus, as well out of the court of chancery as out of the supreme court, and if the chancellor or any judge of the supreme court in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon oath that such copy was denied as aforesaid, shall deny to allow any writ of habeas corpus, by this act required to be granted, being applied for as aforesaid, he shall forfeit to the party grieved, one thousand two hundred and fifty dollars.

Person discharged

And be it further enacted, That no person who shall be set at large, upon any habeas corpus, shall be again imprisoned for the same offence,

unless by the legal order or process of the court wherein he is bound by recognizance to appear, or other court having jurisdiction of the cause; and if any person shall knowingly, contrary to this act, recommit or imprison, or cause to be recommitted or imprisoned for the same offence or pretended offence, any person so set at large, or shall knowingly aid or assist therein, he shall forfeit to the party grieved one thousand two hundred and fifty dollars, any colourable pretence or variation in the warrant of commitment notwithstanding.

not to be
recommitted.

And be it further enacted, That if any person shall be committed for any treason or felony, plainly and specially expressed in the warrant of commitment, upon his petition in open court, the first week of the term or first day of the sessions of the court of oyer and terminer, or gaol delivery, after such commitment, the supreme court, or court of oyer and terminer or gaol delivery, shall upon motion in open court the last day of such court, either by the prisoner, or any one on his behalf, set at liberty the prisoner upon bail, unless it appear upon oath, that the witnesses against the prisoner could not be produced the same court. And if any person committed as aforesaid, upon position as aforesaid to be brought to trial shall not be indicted and tried the second term, sessions of oyer and terminer or gaol delivery, after his commitment, or upon his trial shall be acquitted, he shall be discharged, so far as relates to any treason or felony for which he was committed as aforesaid.

Discharge
of prisoner
for failure
to prosecute.

And be it further enacted, That if any citizen of this State shall be committed to any prison, or in custody of any officer for any criminal matter, such prisoner shall not be removed therefrom, into the custody of any other officer, unless it be by legal process, or where the prisoner is delivered to some inferior officer to carry to gaol or is sent by order of any court, judge or justice to any house of correction, or removed from one place to another within the same county, for trial or discharge in due course of law, or in case of fire, infection or other necessity; and if any person shall after such commitment, make out or sign or countersign any warrant for such removal contrary to this act, as well he who makes or signs, or countersigns such warrant, as the officer executing the same, shall for every offence forfeit to the party grieved five hundred dollars.—

Removal
of prisoner
to custody
of another
officer.

And be it further enacted, That after the court of oyer and terminer or gaol delivery be proclaimed for that county where any prisoner is detained, no prisoner shall be removed from the common gaol upon any habeas corpus granted in pursuance of this act; but upon any such habeas corpus, shall be brought before such court of oyer and terminer or gaol delivery, which court shall thereupon do, what to justice shall appertain. *Provided* that after the court of oyer and terminer, or gaol delivery be ended, any prisoner may have a habeas corpus according to the intention of this act.

Prisoner
not to be
removed
after court
of oyer and
terminer
proclaimed

And be it further enacted, That where any person shall appear to be committed by any judge or justice, and charged as accessory before the fact to any felony, or upon suspicion thereof, or with suspicion of any felony, which felony shall be plainly and specially charged in the warrant of commitment, such person shall not be removed or bailed by virtue of this act, or in any other manner than if this act had not been passed.—

Rule in
cases of
felony.

And be it further enacted, That no citizen of this State, being an inhabitant or resident within it, shall be sent prisoner to any place whatsoever out of this State, for any crime or offence committed within this State, and every such imprisonment is hereby declared to be illegal; and if any such citizen shall be so imprisoned, he may for every such impris-

Imprisonment
in other
States for
offenses
committed
in this
State.

onment, maintain an action of false imprisonment, in any court having cognizance thereof, against the person or persons by whom he shall be so imprisoned or transported contrary to the intention of this act, and against every person who shall contrive, write, seal, sign or countersign any writing for such imprisonment or transportation, or shall be aiding or assisting in the same or any of them; and shall recover treble costs besides damages, which damages so to be given shall not be less than one thousand two hundred and fifty dollars; and every person knowingly concerned in any manner as aforesaid in such illegal imprisonment or transportation, contrary to this act, and being thereof lawfully convicted, shall be disabled thenceforth to bear any office of trust or profit within this State: *Provided always*, that nothing in this act shall extend to give benefit to any person, who shall by contract in writing, agree with any person to be transported to any place out of this State, and receive earnest upon such agreement, altho' that afterwards such person shall renounce such contract, nor to any person who shall be transported in pursuance of any law of this State.—

How penalties recovered.

And be it further enacted, That the penalties by this act made recoverable, shall be recovered by the party grieved, his or her executors or administrators, against the offender, his executors or administrators by action of debt, or by information in any court of record; and if the offence be more than once committed by the same person, and more than one penalty be by this act made recoverable, any recovery or judgment, at the suit of the party grieved, shall be a sufficient conviction for the first offence, and any after recovery or judgment, at a suit of a party grieved for any offence, after the first judgment, shall be a sufficient conviction to bring such person within the said penalty for the second offence: *Provided nevertheless* that no person shall be sued or molested for any offence against this act, unless within two years after the time when such offence shall be committed, in case the party grieved shall not then be in prison; and if in prison, then within the space of two years after the decease of the person imprisoned, or his delivery out of prison, which shall first happen; and in every such action or information, it shall be lawful for the defendant to plead the general issue, and give the special matter in evidence.

Jurisdiction of recorder of New York city.

And be it further enacted That the recorder of the city of New York, shall be ex officio a commissioner, equally authorized and required with a judge of the supreme court, to do and execute the powers and trusts which such judge is authorized and required to do and execute by virtue of this act.—

CHAP. 66.

AN ACT for the relief of debtors, with respect to the imprisonment of their persons.

PASSED the 24th of March, 1801.

Certain prisoners to be discharged after thirty days' confinement.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That every person not being a freeholder who shall be confined in gaol upon any execution or other process, or by virtue of any judgment or order of any court of justice, or by warrant from any judge or justice, for any debt, sum of money, fine or forfeiture, not exceeding twenty five dollars exclusive of costs and shall have remained

in gaol for thirty days, if not detained for any other cause, shall be discharged from such imprisonment by the keeper of the gaol on application to him by the person so confined; and if any suit be brought against the sheriff or keeper of the gaol for such discharge, and the plaintiff be nonsuited or discontinued or judgment be given for the defendant, the defendant shall have treble costs.

And be it further enacted, That no person discharged from imprisonment by virtue of this act, shall at any time thereafter be imprisoned for the same cause; and if any person so discharged, shall be arrested for the same cause, it shall be lawful for any judge of the court, out of which the process, upon which such person shall be arrested, shall have issued, or any justice of the peace, who shall have issued such process, to discharge such person out of custody: *Provided* such person do enter an appearance, or give a warrant to some attorney, to appear and plead to such action.

Person discharged not to be imprisoned a second time for same cause

And be it further enacted, That notwithstanding such discharge every debt and demand, judgment and decree, against the person so discharged shall remain good against the estate real and personal of such person, his arms and accoutrements excepted, and any creditor at whose suit such person was confined, his executors and administrators and the officer who ought to prosecute, for any such fine or forfeiture, may at any time after such discharge, sue out a new execution, or other process for the said debt, sum, fine or forfeiture with the costs against the estate real and personal of the person so discharged, his arms and accoutrements excepted, in the same manner and form, as if such person had never been so confined for the same; and in case no judgment shall be obtained at the time of such discharge, it shall be lawful for the creditor to prosecute his action to judgment, and to prosecute any other action for the recovery of such debt or sum, and to take out such execution therefor with costs, against the estate, real and personal of the person so discharged as if such person never had been confined for the same.

Debt not affected by discharge.

And be it further enacted, That if any person shall be charged in execution for any sum or sums of money not exceeding in the whole five hundred dollars, or on which execution or executions, there shall at any time remain due as shall be made to appear by oath, a sum or sums of money not exceeding five hundred dollars; or if any person shall be charged in execution for any sum or sums of money above five hundred dollars and not exceeding as aforesaid, two thousand five hundred dollars, and shall have remained in gaol the space of three calendar months, and shall in either case be minded to deliver up to the creditor or creditors, who shall so charge him in execution, all his estate and effects towards satisfaction of the debt or debts, wherewith he stands charged, it shall be lawful for such person in the first case at any time, and in the second case after the expiration of the said three calendar months to present a petition to the court from whence the process issued by which he shall be so charged, stating to the best of his knowledge and belief the cause of his imprisonment, and a just and true account of all his estate real and personal in law or equity and of all charges affecting the same, both as the same estate existed at the time of his first imprisonment in the said action, and as it shall exist at the time of exhibiting the petition; and also a just and true account of all deeds, securities, books and writings whatsoever relating to the same, and the names and places of abode of all the witnesses to such deeds, securities and writings; and that previous to the exhibition of such petition, the prisoner shall cause notice in writing to be given to the

Proceedings for discharge of prisoner on making an assignment.

creditors by whom he shall be so charged, or to their executors or administrators, or to their attorney fourteen days at least before such petition is presented, which notice shall be signed by the prisoner and shall state his intention of petitioning the court as aforesaid, and set forth a true copy of the account of his estate as aforesaid: And that upon proof of the due service of such notice, the court shall order the prisoner to be brought up upon a day to be assigned, on which day the court shall in a summary way proceed to hear and examine the allegations and proofs of the parties, and if they shall deem it proper, the court shall tender to the prisoner an oath to the following effect viz:

Oath to
petition.

I do swear that the account by me set forth in my petition presented to this honorable court is in all respects just and true; and that I have not at any time or in any manner or way whatsoever disposed of or made over any part of my estate real or personal in law or equity with a view to the future benefit of myself or my family, or with a view to injure or defraud any of my creditors. And if the court shall be

What to be
assigned.

satisfied that the proceedings on the part of the prisoner are just and fair, they shall then immediately order the estate contained in such account or so much of it as may be sufficient to satisfy the debts wherewith the prisoner stands charged as aforesaid together with the gaol fees (his arms and accoutrements and necessary wearing apparel and bedding and the tools or instruments of his trade not exceeding fifty dollars in value in the whole, excepted) to be by the prisoner, by a short indorsement on such petition assigned to such person or persons as the court shall direct and to his or their heirs, executors, administrators and assigns for the benefit of the creditors who shall have so charged the prisoner in execution, and such assignment shall absolutely and completely vest in the assignee all the estate right and interest of the prisoner, and such assignee may sue for the recovery thereof in his own name and that upon the assignment being made, the prisoner by order of the court shall be discharged from custody in the cause or causes stated in the said petition, and the sheriff or gaoler on being served with a copy of such order shall discharge the prisoner from gaol without taking any fee or detaining him for or on account of any gaol fees: That the assignee shall with convenient speed dispose of the estate so assigned and divide the net produce among the creditors, if more than one who shall have charged the prisoner in execution previous to the exhibition of his petition aforesaid, first paying the fees due to the sheriff or gaoler in whose custody he was and retaining the overplus, if any there be, after the payments aforesaid and all reasonable charges expended in or by means of getting in such estate to the prisoner: But in case the creditor shall not be satisfied with the truth of the prisoners oath and shall in person (or by attorney, if it be made to appear to the satisfaction of the court that he cannot personally attend) desire further time to inform himself, the court shall appoint a further day for the hearing of the parties, and which day shall be as soon as conveniently may be and not beyond the first week in the following term, and the prisoner in the mean time shall be remanded: That at such further day to be appointed, no objection of the creditor as to matters of form shall be received, and unless the creditor shall then be able to satisfy the court that the proceedings on the part of the prisoner are not just and fair, the court shall order an assignment and discharge as aforesaid. *Provided however* that if any person shall refuse to take the oath or to execute the assignment aforesaid, he shall be presently remanded and continue in execution.

Duty of
assignee.

And be it further enacted, That any prisoner, now confined or hereafter to be confined in any gaol in any county other than that in which the supreme court shall sit, by virtue of any execution or executions issuing out of the said supreme court; whereon there shall at any time appear by oath to be due a sum or sums, not exceeding in the whole two thousand five hundred dollars; it shall be lawful for such prisoner to petition the court of common pleas which shall be held in the county, in the gaol of which such person shall be charged in execution as aforesaid in like manner and form, and the same proceedings shall be had thereon as if such prisoner had been confined by process of execution issuing out of the said court of common pleas; and every rule or order made by such court of common pleas for discharging such prisoner out of custody shall be as valid as if the same had been made by the supreme court; and the sheriff or gaoler in whose custody such prisoner may be, is hereby required, on being served with a copy of such rule or order certified by the clerk of the court, making the same forthwith to discharge such person in the manner herein before directed: For the doing of which such sheriff or gaoler shall not be liable to any action of escape, or other suit or information.

When petition may be made to court of common pleas.

And be it further enacted, That if any person who shall take any oath by this act required to be taken, shall upon any indictment for perjury, be convicted by his own confession, or by verdict every person so convicted shall suffer the pains and forfeitures, which by law are to be inflicted upon any person guilty of wilful and corrupt perjury; and shall likewise if discharged out of execution by virtue of this act, be liable to be taken on any process de novo, and charged in execution for the said debt in the same manner as if he had not been taken and discharged, and shall never after have the benefit of this act.

Perjury, effect of.

And be it further enacted, That no prisoner who shall be so discharged by virtue of this act on such petition as aforesaid, shall ever after be arrested, for the same debt or debts, nor shall any action of debt be brought against him on any such judgment, unless he shall under this act be convicted of wilful perjury; but notwithstanding any discharge obtained by virtue of this act for the person of any such prisoner the judgment obtained against every such prisoner, shall remain in force and execution may at any time be taken out thereon, against the lands, tenements, goods and chattels of any such prisoner, other than and except the necessary wearing apparel and bedding for him and his family and the necessary tools for the use of his trade or occupation, not exceeding fifty dollars in value in the whole, as if he had never before been charged in execution and released out of prison by virtue of this act.

Debt not affected by discharge.

And be it further enacted, That every assignee to whom by virtue of this act the estate or effects of any prisoner shall be assigned is hereby empowered to make composition with any debtor or accountant to such prisoner, where the same shall appear necessary or reasonable and to take such part of any debt or demand, as can upon such composition, be obtained in full discharge of such debt or demand, and also to submit any dispute concerning any part of such prisoners estate or effects or by reason of any matter relating thereto, or to such prisoner, or in respect of any debt or sum of money or any thing claimed to be due or belonging to such prisoner, at the time of his discharge to the final end and determination of arbitrators to be chosen by the said assignee and the party with whom any such dispute shall be; and if such arbitrators cannot agree in the same, then to submit the same to the determination of any umpire to be chosen by them, or otherwise to settle and agree the matter in dispute between them in such manner as such assignee

Duty of assignee.

shall think fit and can agree; and the same shall be binding upon all the creditors of such prisoner who shall have charged him in execution, and also upon every such prisoner; and every such assignee is hereby indemnified for what he shall fairly and without any fraudulent design do in the premises according to the directions of this act.

Removal of assignee.

And be it further enacted, That it shall be lawful for the respective courts out of which the process issued, upon which any such prisoner so discharged was committed in execution or any judge of any such court, and for the supreme court, or any judge thereof, in all cases, and at any time on the petition of any creditor or creditors who had charged any such prisoner in execution; or of any such prisoner, to such court, or to any judge thereof, complaining of any insufficiency, fraud, mismanagement or other misbehavior of any such assignee or assignees, to order the respective parties concerned to attend such court, on the matter of every such petition, at some certain time in such order, to be mentioned; and every such court on hearing the parties, concerned therein, is hereby authorised to make such order and give such directions in the premises, either for the removal of such assignee or assignees and appointing any new or other assignee or assignees in the place of such assignee or assignees, so to be removed; or for the just or equitable management or distribution of the said estate and effects, or any part thereof for the benefit of the respective creditors as aforesaid of such prisoner, as such court shall think fit; and in case of the removal of any assignee or assignees, and the appointing any new assignee or assignees, the estate and effects of such prisoner, shall from thenceforth be divested out of the assignee or assignees so removed, and be vested in and delivered over to such new assignee or assignees in the same manner and for the like intents and purposes as the same were before vested in the former assignee or assignees.

Statement of mutual accounts.

And be it further enacted, That where mutual credit, shall have been given, between any prisoner who shall be discharged under this act, and any other person, bodies politic or corporate, before the delivery of any schedule or inventory of the estate and effects of such prisoner, upon oath, as by this act is directed, then, and in every such case, the respective assignee or assignees of such prisoner, shall have power, and they are hereby required, on his and their parts to state an account between them, and nothing more shall be deemed to be vested by any assignment or conveyance which shall be made by virtue of this act as the estate or effects of such prisoner, than what shall appear to have been due and to be justly coming to him on the balance of such account, when truly stated.

Appearance and plea by prisoner in custody on civil process.

And be it further enacted, That if any defendant be taken or charged in custody at the suit of any person upon any process out of any court of record and imprisoned or detained in prison for want of sureties for his appearance to the same, the plaintiff in such process shall before the end of the next term after such process shall be returnable declare against such prisoner in the court out of which the process issued, and shall cause a true copy thereof to be delivered to such prisoner, or to the sheriff or keeper of the gaol in whose custody such prisoner shall be, in which declaration it shall be alledged in custody of what sheriff or officer such prisoner shall be by virtue of the said process at the time of such declaration, and to which declaration, the said prisoner shall appear and plead; and if any such prisoner shall not appear and plead to the same, the plaintiff shall have judgment in such manner as if the said prisoner had appeared in such court and refused to plead.

And be it further enacted, That if any plaintiff shall obtain judgment in any court of record, in any action against any defendant in custody of any sheriff or other officer, either upon the process in the same action or upon being surrendered in discharge of the bail, or otherwise, and shall not charge such defendant so remaining a prisoner in execution within three months next after such judgment obtained, then such defendant so remaining in prison may be discharged out of custody, by a supersedeas to be allowed by one of the judges of the court in which such judgment shall be obtained; and where any defendant shall be surrendered in discharge of his bail, after judgment obtained against such defendant, and be thereupon committed to gaol, and the plaintiff shall not charge such defendant so surrendered and remaining in gaol in execution, within three months next after such surrender, such defendant remaining in prison may be discharged out of custody, by a supersedeas to be allowed as aforesaid.

When supersedeas to be allowed.

And be it further enacted, That where any prisoner charged in execution for any debt or damages, not exceeding two thousand five hundred dollars besides costs, shall have remained in execution for the space of three months, then any creditor at whose suit such person shall be so charged, and his executors and administrators, may, by notice in writing subscribed by such creditor require such prisoner to exhibit such account and make such assignment as is herein before directed; and if such prisoner shall not, as soon as may be after thirty days from the time of such notice take the steps herein before directed, in order to entitle him to a discharge by virtue of this act, such prisoner shall be forever barred from obtaining such discharge.

When creditor may apply for assignment; effect of refusal by prisoner.

CHAP. 67.

AN ACT for the relief of the representatives of John Carpenter deceased.

PASSED the 24th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful to and for the commissioners of the land office, and they are hereby required to grant unto the legal representatives of John Carpenter deceased, their heirs and assigns, two hundred acres of land, out of any unappropriated lands belonging to the people of this State, situated in the eastern district thereof not reserved for public uses, the same to be surveyed at the expence of the said grantees.

Grant of lands to legal representatives of John Carpenter.

CHAP. 68.

AN ACT to remove obstructions to the rafting of lumber in certain parts of Hudsons river.

PASSED the 24th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That John P. Becker, Dick Swart, John Folsome, Herman Van Vechten and Smith Barber or a majority of them shall

Removal of obstructions in certain

parts of
the Hud-
son river.

have full power and authority by virtue hereof to remove all obstructions to the running of rafts in said river from the head of Stillwater Falls to the village of Waterford, and to sink the bed of said river to such depth or depths as they may deem necessary for the purposes aforesaid. *Provided nevertheless* that in removing such obstructions and in sinking the bed of said river they the said John P. Becker Dirk Swart, John Folsome Herman Van Vechten and Smith Barber, shall not break or destroy any of the permanent mill dams which now are between the head of Stillwater Falls and the village of Waterford as aforesaid.

CHAP. 69.

AN ACT concerning the commissioners of the land office, and the settlement of lands.

PASSED the 24th of March, 1801.

Commi-
sioners of
the land
office; of
whom
board to
consist.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the person administering the government of this State, the lieutenant governor, the speaker of the assembly, the secretary of the State, the attorney general, the comptroller and the treasurer of this State shall ex officio be and continue commissioners of the land office to direct the granting of the unappropriated lands within this State, according to such powers and directions as shall from time to time, be prescribed by law; and all powers now or at any time hereafter to be vested in the said commissioners, may be lawfully executed by any three of them, the person administering the government of this State being always one, and the secretary of this State shall be secretary of the said commissioners. —

Sale of cer-
tain unap-
propriated
lands.

And be it further enacted, That it shall be lawful for the said commissioners and they are hereby required to direct the sale of the residue of the unappropriated lands of this State situate in the western district thereof to be made in the manner hereinafter prescribed, excepting the lands reserved to the Oneida, Onondaga, and Cayuga Indians, and the lands purchased from the said Indians respectively since the eleventh day of March one thousand seven hundred and ninety three, and all lands heretofore reserved by law for public uses, or for the use of this State and all lands in the counties of Onondaga and Cayuga. —

Survey to
be made of
lands.

And be it further enacted, That it shall be lawful for the said commissioners and they are hereby required to direct the surveyor general to cause actual survey to be made of the unappropriated lands of this State situate in the said western district, and not already surveyed, and that every of the tracts so to be surveyed as aforesaid shall be laid out into a town or towns containing, as nearly as may be, sixty four thousand acres each, and as nearly in squares as local circumstances will permit; and that each town shall be laid out and surveyed into lots of one hundred and sixty acres, which shall also be as nearly square as may be, and the lots in each town shall be numbered from number one progressively to the last inclusive. —

Maps to be
made and
filed.

And be it further enacted, That the surveyor general shall make or cause to be made, a map of each of the said tracts so to be surveyed as aforesaid, distinguishing on such map each town, and the lots therein contained, which map shall be fixed up in the said surveyor generals office, and one copy thereof, to be furnished by him, shall also be fixed

up in the office of the secretary of this State; and the said surveyor general and secretary, shall respectively permit any person whatever, freely to inspect the said maps, between the hours of nine and twelve in the morning and three and six in the afternoon of every day (Sundays excepted) and the said map shall, after the sale of the lands described thereon as herein after directed, be filed in the offices of the said surveyor general and secretary respectively. —

And be it further enacted, That whenever the said commissioners shall direct the sale of any tract or tracts of the said lands, surveyed, as aforesaid, to be made pursuant to this act, and the map or maps thereof shall have been fixed up in the said offices as aforesaid, the said surveyor general shall give notice thereof by advertisement, to be published in at least one of the newspapers printed in each of the great districts in this State; and shall in such advertisement, specify a day certain, not less than two, nor more than four months from the day on which such advertisement shall be first published, when he will commence the sale of such lands in the city of Albany by single lots, at public vendue, to the highest bidder; and shall also, in such advertisement, generally describe the situation of such lands, and the terms of payment allowed to the purchaser by this act. —

Notice of
sale.

And be it further enacted, That the said surveyor general shall on the day specified in such advertisement, and on so many days succeeding the same as shall be necessary for that purpose, put up to sale, at public vendue, at the city of Albany aforesaid, the said lands so advertised as aforesaid, and sell the same by single lots, to the highest bidder. *Provided always*, that no more than sixty four thousand acres of the unappropriated lands so to be surveyed as aforesaid, shall be directed by the said commissioners to be sold at any one sale or vendue, and that the same shall not be sold at a less price than seventy five cents per acre. *And provided also*, That the sales to be directed by virtue of this act, shall be held at the distance of at least three months from each other. —

Sale of
lands at
public
auction.

And be it further enacted, That every purchaser shall, immediately after having made his purchase, or within forty eight hours thereafter pay to the said surveyor general the fourth part of the purchase money and on having paid the same, the said surveyor general shall give unto such purchaser a certificate, containing such a description of the lands purchased, as that the same may be inserted in the letters patent to be granted therefor; and shall indorse on such certificate the sum by him received, and also the sum remaining due on such purchase; and if the purchasers shall not, within twelve months after the date of the said certificate pay the sum so remaining due to the treasurer of this State, the purchase of such delinquent purchaser shall be, and hereby is declared void, and the money so paid forfeited to the people of this State; but if the sum so remaining due shall be paid to the said treasurer within the time herein limited, he shall indorse a receipt therefor on the said certificate; and it shall be lawful for the said commissioners, and they are hereby required, on such certificate and receipt being produced to them, to direct letters patent to be prepared and issued for the lands described in such certificate, to the purchaser thereof, or to his legal representatives. *Provided always*, that if any purchaser shall neglect or refuse, within forty eight hours after such purchase to pay the said fourth part of the purchase money, such purchase shall be, and hereby is declared void; and the said surveyor general shall, at the same vendue, again expose to sale the lands so purchased in manner aforesaid, and the purchaser shall for such neglect or refusal, forfeit to the people

Payment
of pur-
chase-
money.

of this State the sum of twelve dollars and fifty cents to be sued for and recovered by the said surveyor general, in his own name, with costs of suit, before any justice of the peace within this State.

Names of towns laid out.

And be it further enacted, That the said commissioners shall designate every town to be laid out by virtue of this act, by such name as they shall deem proper, and such name shall be inserted in the letters patent to be granted for the lands contained therein.

Reservations for schools and literature.

And be it further enacted, That in every town to be laid out as aforesaid the surveyor general shall reserve four lots, and mark the same on the map, for promoting schools and literature, which lots shall be as nearly central in each town as may be, and shall not be sold, but reserved for, and hereafter applied by the legislature for promoting public schools and literature in the respective towns.

Returns to be made by surveyor-general.

And be it further enacted, That the surveyor general shall within forty days after every vendue or sale of lands to be held by virtue of this act, make return of such sales and pay the monies which shall have arisen therefrom, to the treasurer of this State, and if the respective purchasers, or some person on their behalf do not pay the purchase money, which shall remain due, within the time herein before limited, the said treasurer shall transmit to the said surveyor general the name of every delinquent purchaser, and the said surveyor general shall thereupon advertise and sell the said lands so sold and not paid for, in the same manner as if such sale had not been made. *And further* that in case any person shall purchase at any sale or vendue to be held by virtue of this act, two or more lots as aforesaid the same shall be included in one patent, to be issued for the same.

Grants of lands under water.

And be it further enacted, That it shall be lawful for the said commissioners to grant so much of the lands under the water of navigable rivers as they shall deem necessary to promote the commerce of this State, *provided always,* that no such grant shall be made to any person whatever, other than the proprietor or proprietors of the adjacent lands. *And provided also,* that every applicant for such grant shall, previous to his or her application give notice thereof, by advertisement, to be published in one of the news-papers printed in this State, for six weeks successively, and shall cause a copy of such advertisement to be put up at the court house of the county in which the lands lay, so intended to be applied for, and if there be no court house in the county, then at such place as the said commissioners shall direct.

Conditions of settlement.

XII. *And be it further enacted,* That on the lands to be granted by this act there shall be an actual settlement made for every six hundred and forty acres which may be granted to any person or persons, within seven years from the first day of January next after the date of the patent, by which such lands shall be granted, and on the failure of such settlement the unsettled lands shall revert to the people of this State; that the time limited in the patents heretofore granted by this State for the settlement of lands shall be and hereby is extended for seven years, from the first day of January last.

Form; reservations.

And be it further enacted, That all letters patent hereafter to be granted, shall be in such form as the said commissioners shall direct, and shall contain an exception and reservation to the people of this State, of all gold and silver mines.—

Extinction of claims.

And be it further enacted, That it shall be lawful for the said commissioners in all cases in which claims exist against this State, for lands granted or located under the authority thereof, to any persons whatsoever, the title to which was at the time of granting or locating the same out of this State, to agree with the said claimants upon such terms as

they shall deem reasonable for the extinguishment of their respective claims, and to cause to be ascertained and determined in such manner as the said commissioners shall deem proper the quantity of other lands to be granted by them to such claimants in lieu of the lands first granted or located by them as aforesaid.

And be it further enacted, That it shall be lawful for the comptroller, Id. the attorney general, and surveyor general of this State, or any two of them by and with the consent and approbation of the person administering the government, from time to time, to extinguish all legal claims upon lands that have been sold under the authority of this State and that it shall be lawful for the comptroller to draw his warrants on the treasury, for the sum or sums that shall or may be agreed to be paid for the extinguishment of such claims, to be paid out of any unappropriated monies in the treasury.—

And be it further enacted, That the secretary of this State shall as soon as conveniently may be after the first day of January one thousand eight hundred and eight make out an abstract of all lands granted by letters patent, under the great seal of this State, which contain a condition of actual settlement, specifying the time limited in and by such letters patent for such actual settlement, and shall deliver such abstract to the surveyor general for the time being, who is hereby enjoined, without delay after the day above mentioned, to make enquiry, and if he shall find that any of such lands, granted on the condition aforesaid shall not then be so actually settled he shall give notice thereof to the attorney general of this State, who shall without delay, cause a writ to be issued out of the court of chancery, and directed to the sheriff of the county in which the same land shall be situated, in the form following: The people of the State of New York, to the sheriff of Abstract of lands granted on condition of actual settlement.
greet- Form of writ.
ing—: Whereas, by our letters patent, under our great seal, bearing date (reciting the same letters patent) and because we are informed that such settlement (or settlements, as the case may be) as the law requires, hath not (or have not, as the case may be) been made thereon, by reason whereof the same lands ought to revert to us: Therefore, we command you that by the oath of twelve good and lawful men of your county, you diligently enquire whether such settlement (or settlements, as the case may be) hath (or have as the case may be) been made on the said lands, or on any and what part thereof, as the law requires; and the inquisition which you shall take thereof, do you send under your seal, and the seals of those by whose oath you take the same inquisition before us in our court of chancery, without delay, wheresoever the said court shall then be, together with this writ: And the sheriff shall upon receiving such writ, affix a copy thereof upon the front door of the court house, or place where the courts of common pleas and sessions of the peace in his county were last held, with a notice of the time when, and place where, the same writ is to be executed, which time shall not be less than sixty days from the time of fixing the same notice in the manner aforesaid, and upon the return of the same writ, any person aggrieved by the inquisition thereupon taken may traverse the same; and when any issue shall be joined thereupon, the record thereof shall be sent into the supreme court of judicature of this State, there to be tried and determined according to law; and if judgment shall be given thereupon for the people of this State then a writ shall be issued out of the same supreme court to the sheriff of the same county commanding him to seize and take the lands found to be so unsettled into the hands of the people of this State; but if no such traverse shall be taken to such inquisition, within three terms after the return of the same then such Writ to sheriff to seize lands

writ shall immediately thereafter be issued out of the court of chancery, commanding the sheriff to take and seize the lands found by the inquisition to be so unsettled into the hands of the people of this State, and upon the return of such writ of seizure, the attorney general shall cause the record and process to be exemplified under the seal of the court out of which the same writs of seizure issued and deposit such exemplification in the office of the secretary of this State; and all such lands so found to be unsettled shall be thereafter disposed of and appropriated in such manner and for such purposes, as the legislature shall direct.

Eastern
boundary
line of
Massachu-
setts grant.

And be it further enacted, That the map and description of the line run by Benjamin Ellicot, as for the eastern boundary line of the lands ceded by this State to the commonwealth of Massachusetts, by the deed of mutual cession executed on the sixteenth day of December one thousand seven hundred and eighty six with the certificate of the surveyor general of this State indorsed thereon, and heretofore delivered by him to the secretary of this State to be deposited among the archives of this State shall there remain as a public record; and the line indicated on such map and in such description, shall forever hereafter be taken and deemed to be the eastern boundary line of the lands aforesaid.

Sale of
bounty
land war-
rants.

And be it further enacted, That it shall be lawful for the commissioners of the land office from time to time to sell, in such manner and on such terms as they shall judge most advantageous to the State, all such land warrants of the United States of America for bounty lands to soldiers as have been or hereafter may be assigned to the people of this State.—

CHAP. 70.

AN ACT declaring the powers of the courts of general sessions of the peace, and the powers and duties of justices of the peace.

PASSED the 24th of March, 1801.

Inquiries
by grand
juries in
courts of
general
sessions.

Be it enacted by the People of the State of New-York represented in Senate and Assembly, That it shall be lawful for the courts of general sessions of the peace in the city and county of New York, and in the several counties of this State, to enquire by the oath of good and lawful men of the same counties respectively, by whom the truth may be the better known, of any treason misprision of treason murder or felony, and of all other crimes and misdemeanors whatsoever, done or committed in the city or county for which such court shall be held, and the same crimes and misdemeanors to hear, determine and punish according to law: *Provided nevertheless,* that it shall not be lawful for any of the said courts, to hear or determine any indictment of, or for any treason, misprision of treason, murder or other felony or crime, which is or shall be punishable with death, or with imprisonment in the State prison for life, but shall cause the indictments for the same to be delivered to the next supreme court, or court of oyer and terminer, or gaol delivery to be held in such city or county, there to be determined according to law.

Summon-
ing of
grand
juries.

And be it further enacted, That the sheriffs of the respective counties of this State, at certain days and places, which the justices of the peace for every such county or any two or more of them, together with one of the judges of the court of common pleas in and for such county, shall make known to them, shall cause to come before the said courts of

general sessions of the peace, twenty four good and lawful men of the same counties, respectively, to enquire for the people of this State and the bodies of the same counties, and likewise so many good and lawful men of the same counties respectively, duly qualified to serve as jurors in the same counties, as the said justices shall direct, by whom the truth of the matter may be the better known and enquired into, of all crimes and misdemeanors to be tried at the said courts.—

And be it further enacted, That no process or pleas whatever, before any of the said courts of general sessions of the peace, shall be discontinued by any new commission of the peace, but the same shall stand in full force; and the justices in such new commissions shall have authority in the said courts to continue, hear and determine the same process and pleas, and all that shall depend upon them, as the other justices might have done, if no new commission had been made.—

Process not to be discontinued by new commissions.

And be it further enacted, That upon appeals to the said courts of general sessions of the peace, against any judgment or order of any justice of the peace, the said courts shall cause all defects of form to be found in such judgment or order, to be amended without any costs to the parties concerned; and after such amendment made, shall proceed to hear the merits of such judgment or order upon due proof by witnesses or otherwise, and to determine upon the same as if no such defect of form had existed.

Amendments to cure defects.

And be it further enacted, That in every county of this State fit and discreet men shall from time to time be appointed and commissioned justices, to keep the peace in the same counties respectively, who shall have power, jointly and severally, to cause to be kept all laws made for the preservation and good of the peace, and to cause to come before them or any of them, all persons who shall break the peace, and to commit them to gaol, or to bail them, as the case may require, and also to cause to come before them, all persons who shall threaten to break the peace, or who be not of good fame, to find sufficient security for the peace, or for their good behaviour, or both, as the case may require, and if they refuse to find such security, to commit them to prison, until they shall find the same, and every recognizance so taken for the keeping of the peace or for good behaviour, shall be certified, and sent or brought by the justice taking the same, to the next court of general sessions of the peace for the county in which he is a justice, to the end, that the party bound may be called, and if he make default, that the same may be recorded, and the recognizance with the record of the default sent and certified into the exchequer.—

Commissions of justices of the peace.

And be it further enacted, That every justice of the peace before whom any person shall be brought for any treason or felony, or for suspicion thereof, before he commit such person to gaol, shall take the examination of such prisoner, and the information of those who bring him, relative to the fact; and the same or so much thereof as shall be material to prove the offence, shall be put in writing by the said justice, within two days after the said examination; and he shall bind by recognizance all the material witnesses against such prisoner, to appear and testify at the next court having cognizance of the offence, and where the prisoner ought to be tried, and shall certify the recognizances, together with the said examinations so reduced to writing under his hand, into the said court where such witnesses are bound to appear, on the first day of the sitting thereof; and if any justice of the peace shall refuse or neglect to take the examinations and recognizances, or to certify the same as aforesaid, the said court into which the same ought to have been so certified, shall upon due proof by examination before them, impose such fine

Duty of justices in criminal cases.

upon every justice so refusing or neglecting, as to the said court shall seem meet.

Prisoners to be let to bail before indictment.

And be it further enacted, That the said courts of general sessions of the peace, or any two justices of the peace, jointly out of sessions, may by their discretion, let to bail prisoners arrested, and in gaol, in their respective cities and counties, for suspicion of felony, to appear at the next court having cognizance of the offence, and where the prisoner ought to be tried; and the said justices, or one of them, when any such prisoner shall be brought before them, shall take and certify into the said court his examination, and the information of those who bring him, and the recognizances of the material witnesses, in like manner as is directed in the preceding section, and the said court shall have like power to fine any justice of the peace for his refusal or neglect in the premises.—

Powers of certain city officers.

And be it further enacted, That the mayor, recorder and aldermen of the cities of New York and Albany, and each of them, shall have the like powers in the said cities, as are herein before given to justices of the peace: *Provided however,* that all recognizances and examinations taken as aforesaid, in the said city of New York, shall be returned into the police office of the said city, instead of being returned to the sessions.—

Proceedings in certain criminal cases in New York city and county in special sessions.

And be it further enacted, That every person who shall commit any petty larceny, misdemeanor, breach of the peace, or other criminal offence under the degree of grand larceny, within the city and county of New York, and being charged on oath before the mayor, recorder, one of the aldermen, or any special justice or other justice, assigned to keep the peace of the said city, with having committed any of the offences aforesaid, shall not forthwith give good and sufficient bail to appear and answer at the next court of general sessions of the peace, to be held in and for the said city and county, such person shall be committed to gaol; and in case such person shall not give bail as aforesaid within forty eight hours after being so committed, it shall then be lawful for the mayor, recorder and aldermen of the said city, or any three of them, of whom the mayor or recorder to be one, forthwith to hear and determine the offence committed by such offender, and the said offender being convicted by confession, or the oath of one or more credible witnesses, it shall be lawful for the said court of special sessions so assembled, or the major part of them, to give judgment against such offender, that he pay a fine not exceeding twenty five dollars, and be confined not exceeding six months in the house of employment or bridewell of the said city, at hard labor or at any work or employment within any part of the said city, or either of the said punishments, as in the judgment of the said court shall be most proper; and the said offender having paid the fine, and remained his term of imprisonment, or either, as the case may be, shall be immediately discharged without paying any fees, if an inhabitant of the said city; but if not, such offender shall be immediately ordered or transported out of the city, to his last place of settlement or abode, if known, and if any person so ordered or transported, shall remain in the said city for forty eight hours, or return thereto within six calendar months after such order or transportation, he shall be again fined as aforesaid, or confined as aforesaid not exceeding three months, as the said court shall order.—

Sheriff to execute orders of court.

And be it further enacted, That the judgments and orders of the said court shall be executed by the sheriff of the said city and county, by virtue of a warrant under the hand and seal of the mayor or recorder, who presided, commanding the same to be done. And that the charges of prosecuting and punishing every such offender shall be raised at the

same time and in like manner as the other contingent expences of the said city and county, so as the same do not exceed two dollars and fifty cents.—

And be it further enacted, That if any person commit any of the said offences, under the degree of grand larceny in any of the counties of this State, the said city and county of New York, excepted, and be charged as aforesaid before any justice of the peace, and shall not give the like bail within forty eight hours after being committed to gaol, or to the custody of a constable of the town where the offender was taken, it shall then be lawful for the justice who committed such offender to certify the cause thereof to any other two justices of the peace of the said county, and require them to associate with him to try such offender, which they are hereby required to do. And the said justices being met, are authorized to hear, and a majority of them to determine, the offence in like manner as the said court of special sessions in the city and county of New York, and thereupon to impose a fine not exceeding twenty five dollars, or imprisonment in the common gaol of the county, not exceeding six months, or both, as the case may require, and also to make such order or transportation, and to inflict the like punishment for a like non compliance with the same, as the said court of special sessions in the said city and county of New York, is above authorized to make and inflict, and that the charges of prosecuting, punishing, and transporting every such offender shall be defrayed by the counties respectively, where the offence shall happen, and be raised in the same time and manner as the other contingent charges of the county, so as that all the charges for each offender, shall not exceed five dollars. *Provided,* that nothing herein contained, shall be construed to prevent the said court, from trying any such offender in less than forty eight hours, if such offender shall require the same.—

Proceedings in other courts of the State in special sessions.

And be it further enacted, That none of the said courts of special sessions for the trial of the said offenders, who do not give bail as aforesaid, shall have power to sentence any such offender to be imprisoned in the State prison, and any fine to be imposed on such offender, shall, when paid, be applied towards payment of the charges of the prosecution, and the remainder, if any, paid into the treasury of the county.

Prisoners convicted in special sessions not to be sentenced to State prison.

CHAP. 71.

AN ACT to amend an act entitled "An act to augment the funds of the trustees of Union College in the town of Schenectady.

PASSED the 24th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the treasurer of this State shall annually pay to the said trustees the interest on any monies which they may borrow on the credit of this State pursuant to the authority given to them by the act hereby amended.—

Annual payment to be made to Union College.

And be it further enacted, That it shall be lawful for the president and directors of the bank of Albany to loan the monies aforesaid to the trustees of the said college at an annual interest of seven per cent, any thing contained in the act of incorporation of the said bank to the contrary in any wise notwithstanding.—

Loans to college by Bank of Albany.

CHAP. 72.

AN ACT concerning the surveyor general.

PASSED the 24th of March, 1801.

Appoint-
ment of
surveyor-
general.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the person administering the government of this State, by and with the advice and consent of the council of appointment, shall as often as may be necessary, appoint a surveyor general for this State; *provided however,* that the person now holding the said office, shall continue therein during the pleasure of the council of appointment; and that the surveyor general be and he is hereby authorized and required from time to time, to dispose of all real estates forfeited to the people of this State, and not otherwise directed to be sold, in manner following vizt. Every estate so to be sold, shall be sold at public vendue in the city of Albany, of the time and place of which vendue, notice shall previously be given by him for at least eight weeks successively, in the news paper published by the printer of the State for the time being, in one other news paper printed in the city of New York, and in the news paper of one other printer, whose residence shall be nearest to the premises, and on such sale the purchaser of any such estate shall, within twenty four hours thereafter, pay the one fourth part of the money bid for the same of which sale and payment the surveyor general shall give him a certificate, and if such purchaser shall within twelve months thereafter pay the remainder of the consideration money into the treasury, the surveyor general shall execute a conveyance to him for the estate so purchased, and the form of the conveyance to be given by the surveyor general shall be as follows vizt.

Sales of
forfeited
estates.

Form of
convey-
ance.

To all to whom these presents shall come, I surveyor general of the State of New York, send greeting: KNOW YE, That by virtue of the authority vested in me by the laws of the said State, and in consideration of the sum of I have granted, bargained, sold, enfeoffed and confirmed, and by these presents do grant, bargain, sell, enfeoff and confirm unto all the estate, right, title and interest of the people of the said State, of, in and to (here describe the lands or tenements). To have and to hold the premises hereby granted, bargained, sold, enfeoffed and confirmed to the said heirs and assigns, to the proper use and behoof of the said heirs and assigns for ever; in testimony whereof, I have hereunto set my hand and seal, the day of in the year of our Lord and in the year of the independence of the said State.—That all the estate, right and interest of the people of this State of, in or to the lands or tenements in such conveyances mentioned, shall thereby vest in the grantee his heirs and assigns, and such conveyance shall be deemed to operate as a warranty from the people of this State, for securing to the grantee his heirs and assigns, the lands and tenements so conveyed; that in all cases where the surveyor general, after having taken the advice of the attorney general shall deem forfeited lands to be subject to, or incumbered with claims or controversy, and in all cases where he shall deem the people of this State to have a less interest than the absolute property in the whole of the lands, it shall be his duty in such cases, at the time and place of sale, and for at least three hours before the sale, to affix in some public and convenient place there a writing containing a state of all the material facts and circumstances relating to such claim

or controversy, or relating to such interest of the State, as far as the same shall have come to his knowledge; to the end that all persons who shall be then and there attending with intent to purchase, may be informed of such claim or controversy, and of the nature and extent of the interest of the State in the lands: But the conveyance in such cases shall not be deemed to operate as a warranty from the people of this State; and there shall accordingly be inserted in the conveyance immediately before the words "In testimony," the words following vizt. "these presents however are in no wise to operate as a warranty."

And be it further enacted, That whenever it shall be necessary to authenticate by oath any business to be done by any person, under the superintendence or direction of the surveyor general, such oath may be administered either by himself or by any public officer authorized to administer oaths.—

By whom
oaths may
be admin-
istered.

And be it further enacted, That the surveyor general, as soon as he shall have completed a map of this State, in conformity to the documents directed to be furnished him, shall furnish each branch of the legislature with one map, and shall cause one map for each town in this State to be deposited in the office of the secretary of this State, to be given to the clerk of each town, or to his order, for the use of said town.

Maps to be
made and
furnished.

And be it further enacted, That the surveyor general shall cause the boundaries of the lands belonging to the people of this State, adjoining the river Niagara, to be established, by and with the approbation and consent, and at the expence of the proprietors of the lands adjoining the same.—

Boundaries
of State
along Niag-
ara river.

And be it further enacted, That it shall be lawful for the surveyor general, and he is hereby directed, as soon as may be, to cause the lands in the fourth allotment of the royal grant which were vested in the people of this State, except such part thereof as shall be conveyed to occupants, upon a survey by him made in pursuance of the fourth section of an act entitled "An act for the relief of Nicholas Aldridge and others" and have not been sold by the commissioners of forfeitures, to be surveyed into lots, to contain not more than three hundred acres, and shall sell the same at public vendue, in the same manner and upon the same terms and conditions as are prescribed to the commissioners of the land office in respect to the unappropriated lands in the western district of this State.—

Survey and
sale of cer-
tain lands.

And be it further enacted, That the surveyor general shall be, and he is, hereby empowered to demand from any supervisor of any town in this State a survey of so much of the bounds of such town as he cannot otherwise obtain; and it is hereby made the duty of such supervisor thereupon to cause such survey to be made, and within sixty days after such demand, to deliver a map and description of such bounds to the surveyor general, the costs and charges of which shall be defrayed by the towns respectively to which such bounds belong in the manner in which other contingent charges of towns are defrayed and paid.—

Surveys of
towns.

And be it further enacted, That in case of the refusal or neglect of any supervisor to perform the duties enjoined on him as aforesaid, he shall forfeit and pay the sum of fifty dollars to be recovered by the district attorney of the district in which such supervisor shall reside in an action of debt in any court of record in this State having cognizance thereof; and it is hereby made the duty of the said district attorney to prosecute any delinquent in the premises, and the monies so recovered shall be delivered to the surveyor general, and by him be applied to the making of a map of the town delinquent as aforesaid.—

Penalty for
refusal by
supervisor
to perform
certain
duties.

Fees of surveyor-general. *And be it further enacted,* That it shall be lawful for the surveyor general to demand and receive the fees herein after mentioned for the services to which they are annexed, to wit; for filing every paper, twelve & an half cents; for all original drafts twenty five cents for each sheet containing one hundred and twenty eight words; for entering every copy when requisite, and for copies of all papers on file twenty cents for each sheet containing one hundred and twenty eight words; for every search twelve and an half cents; for copies of maps such sum as is usually charged for the like business. For surveys to be performed at the rate of three dollars and fifty cents for the surveyor per day, exclusive of the reasonable expences for the hire of men horses and provisions.

To account with comptroller. *And be it further enacted,* That the surveyor general shall from time to time account with the comptroller for all monies received by him in behalf of the State. —

Records in secretary's office. *And be it further enacted,* That the secretary of this State shall from time to time, when thereunto required by the surveyor general, furnish him with certified copies, or extracts of such patents, Indian purchases, surveys and other papers as he shall signify to be requisite for the better execution of his trust. —

CHAP. 73.

AN ACT concerning escheats.

PASSED the 24th of March, 1801.

Payment of proceeds of estates into treasury where no claimant appears. *Be it enacted, by the People of the State of New York represented in Senate and Assembly,* That in cases where administration hath been or shall be granted to any person, not the widow of, or not of kin to the intestate, and no person shall within one year after granting the same appear to claim the personal estate of such intestate as next of kin, if the administrator shall neglect or refuse to pay the amount thereof after deducting the debts and funeral charges of the intestate, into the treasury of this State, for the benefit of those who may thereafter appear to be entitled to the same, it shall then be the duty of the attorney general to cause such administrator to be cited to exhibit a just and true inventory, and render an account of the administration of the goods chattels, and credits of such intestate, unless such administrator shall have before exhibited such inventory, and then only to render an account of the administration as aforesaid; and the judge of the court of probate, or surrogate, before whom such administrator shall be cited, shall thereupon examine and settle such account, and after deducting all debts and funeral charges of the intestate, shall order the administrator to pay the balance to the treasurer of this State, for the purposes aforesaid, but no commission whatsoever shall in such case be allowed to such administrator on such account, and in case any such administrator shall neglect or refuse to exhibit such inventory, or to render such account, or to pay the amount of the estate of such intestate to the treasurer as aforesaid, it shall then be the duty of the attorney general to cause a suit to be brought for and on behalf of the people of this State against such administrator in any court of record, for the sum so ascertained by the judge of the court of probates, or surrogate, or in the court of chancery for an account of the estate of the intestate, and to compel payment of the same into the treasury as aforesaid, and also to cause suits to be brought upon the bond given by such administrator upon obtaining the

letters of administration ; and if such administrator shall be found in default, and a judgment or a decree be given or obtained against him in any such suit, he shall pay costs therein, to be taxed to the attorney general; and the monies recovered in every such suit and upon such bonds, shall be paid into the treasury of this State for the purposes aforesaid; and if any person at any time thereafter shall claim any part of the money so paid into the treasury such person may present a petition to the chancellor stating the claim and praying an order to the treasurer to pay the money, a copy of which petition shall be served upon the attorney general, who shall put in an answer to the same, and the chancellor shall thereupon examine the said claim and the allegations and proofs, and if he shall find that such person is entitled to any money so paid into the treasury, he shall by an order direct the comptroller to issue his warrant to the treasurer for the payment of the same, but without any interest or costs to the person so entitled to it, which order shall be sealed with the seal of the said court of chancery, and be signed by the chancellor, and countersigned by the register of the said court, and shall be a sufficient voucher for such warrant of the comptroller.

And be it further enacted, That whenever the attorney general shall be informed, or have reason to suspect that any person has died seized of any real estate within this State, without making any devise thereof, and leaving no heir capable of inheriting the same, he shall cause a writ to be issued out of the court of chancery, and directed to the sheriff of the county in which the same real estate shall be situated, in the form following: "The people to the sheriff of _____ greeting; because we are informed that A. B. died seized of divers lands, tenements and hereditaments in your county, without making any devise thereof, and leaving no heir capable of inheriting the same, we command you, that by the oath of twelve good and lawful men of your county, you diligently enquire what lands, tenements, and hereditaments the said A. B. was seized of at the time of his death, of any and what estate of inheritance, and when he died, and whether he made any and what devise thereof, and whether he left any heir, and if he did, who is his heir, and what is the clear yearly value of such lands, tenements and hereditaments; and the inquisition which you shall take thereof, do you send under your seal, and the seals of those by whose oath you take the same inquisition, before us in our chancery without delay wheresoever the said court shall then be, together with this writ." And upon the return of the inquisition thereupon taken, any person aggrieved thereby, may traverse the same; and when any issue shall be joined thereupon, the record thereof shall be sent into the supreme court, there to be tried and determined according to law; and if the judgment shall be given thereupon for the people of this State, then a writ shall be issued out of the same supreme court to the sheriff of the same county, commanding him to seize and take the lands, tenements, and hereditaments whereof the person named in such inquisition, shall be found to have died seized as aforesaid into his hands; but if no such traverse shall be taken to such inquisition before the end of the next term after the return of the same inquisition then such writ shall immediately thereafter be issued out of the court of chancery, commanding the sheriff to seize and take the same lands, tenements, and hereditaments, and upon the return of such writ of seizure, the attorney general shall cause the record and process to be exemplified under the seal of the court, out of which the same writs of seizure issued, and deposit such exemplification in the office of the secretary of this State; and the commissioners of the land office

Proceedings in case of lands left by person without heirs or devisees.

Proceedings in case of lands left by person without heirs or devisees.

shall thereupon cause the said lands, tenements and hereditaments to be sold at public vendue by the surveyor general, who shall give at least six weeks previous notice of the time and place of such sale, by publishing the same in the news papers printed by the printer to this State, and in one of the news papers printed in the city of New York; and the surveyor general shall upon such sale give the purchaser, a certificate containing the name of the purchaser, and a description, and the bounds of the lands, tenements and hereditaments purchased, and the price to be paid for the same; and the purchaser shall thereupon and within thirty days thereafter, pay to the treasurer of this State the sum mentioned in such certificate, and the treasurer shall thereupon indorse a receipt for the same upon such certificate; and upon producing the same certificate and receipt to the commissioners of the land office, they shall cause letters patent to be issued to such purchaser, for the lands, tenements and hereditaments in the same certificate mentioned; which letters patent shall be in such form as the said commissioners shall direct, and shall grant and convey an estate of inheritance in the said lands, tenements, and hereditaments, to such purchaser, and to his heirs and assigns forever: And upon the production of such letters patent to the sheriff, he shall deliver the possession of the said lands, tenements and hereditaments to the purchaser thereof—

Id., in cases of forfeitures and outlawry.

And be it further enacted, That the like process and proceedings, as near as the circumstances of the cases will admit, shall be had in all cases of real estates to be forfeited for treason, or upon any outlawry for the same, and in all cases of forfeiture of personal estate for treason, the attorney general may sue for and recover the same, for and in behalf of the people of this State, and shall pay the amount thereof when recovered, into the treasury, and in cases where it shall be necessary, the attorney general may cause a writ to be issued out of the court of chancery, to the sheriff of any county to enquire what goods and chattels, any person convicted of treason, or outlawed for the same, had at the time of such conviction, and to seize and safely keep the same and return the inquisition into the court of exchequer, where any person aggrieved thereby may traverse the same; and if judgment shall be given upon such traverse for the people of this State, or if such inquisition shall not be traversed before the end of the term in which it shall be returned, then a writ shall be issued out of the court of exchequer to the sheriff commanding him to sell the said goods and chattels, and to bring the monies arising from the sale thereof into the said court, for the use of the people of this State.

CHAP. 74.

AN ACT to prevent perjury.—

PASSED the 24th of March, 1801.

Perjury defined.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That if any person shall unlawfully and corruptly procure any witness by any means whatsoever to commit any wilful and corrupt perjury in any matter or cause depending or to depend in the court of chancery, or in the court of probates, or in any court of record, or before any judge, justice of the peace, mayor, recorder, or alderman, or shall unlawfully and corruptly procure any witness who shall be sworn to testify in perpetuum rei memoriam, every such person shall for every

such offence be adjudged guilty of subornation of perjury; and if any person either by the subornation of another, or by his or her own act or consent, shall wilfully and corruptly swear or affirm falsely, in any of the courts aforesaid, or before any person having competent authority to administer such oath or affirmation, every such person shall be adjudged guilty of wilful and corrupt perjury, and every person convicted of subornation of perjury, or of wilful and corrupt perjury shall not thereafter be received as a witness to be sworn in any matter or cause whatsoever until the judgment given against him or her be reversed.

And be it further enacted, That in every information or indictment to be prosecuted against any person for wilful and corrupt perjury either at the common law, or upon this act, it shall be sufficient to set forth the substance of the offence charged upon the defendant, and by what court or before whom the oath was taken, (averaging such court or person to have a competent authority to administer the same,) together with the proper averments to falsify the matter wherein the perjury is assigned, without setting forth any part of any record or proceedings either in law or equity other than as aforesaid, and without setting forth the commission or authority of the court or person, before whom the perjury was committed; and that in every indictment or information for subornation of perjury, either at common law, or upon this act, it shall be sufficient to set forth the substance of the offence charged upon the defendant, without setting forth any part of any record or proceedings either in law or equity, and without setting forth the commission or authority of the court or person before whom the perjury was committed, or was agreed or promised to be committed.

And be it further enacted, That it shall be lawful for any judge of the supreme court, either at the supreme court, or any circuit court, and for the justices of the courts of oyer and terminer, and gaol delivery sitting the court or within twenty four hours thereafter, to direct any person examined as a witness upon any trial at such court, to be prosecuted for perjury, if there shall appear to him or them reasonable cause for such prosecution, and that the same would be proper, and to assign the party injured, or other person undertaking such prosecution, counsel who shall do their duty without any fee, or reward for the same; and every such prosecution shall be carried on without payment of any fees to any officer of the court who might otherwise claim the same; and the clerk attending when such prosecution is directed shall without any fee or reward give the party injured, or other person undertaking such prosecution a certificate of the same being directed, and the name of the counsel assigned him by the court, which certificates shall be proof that such prosecution was directed, but no such direction or certificate shall be given in evidence on the trial to be had upon a prosecution so directed.

CHAP. 75.

AN ACT, concerning the supreme court.

PASSED the 24th of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the supreme court of judicature of this State shall be held at the four several terms following, to wit, on the third

What to be set forth in information or indictment

When judge to direct witness to be prosecuted for perjury

Terms of supreme court.

Tuesdays of January, April, July, and October in every year, and that the said several terms of the said court shall continue and be held from the time of the commencement, every day except Sunday, until and including Saturday in the next ensuing week; and that the term commencing on the third Tuesday of January shall be called January term, and shall be held in the city of Albany; and the term commencing on the third Tuesday of April shall be called April term and shall be held in the city of New York; and the term commencing on the third Tuesday of July shall be called July term, and shall be held in the said city of New York; and the term commencing on the third Tuesday of October shall be called October term, and shall be held in the said city of Albany.

Days of
return.

And be it further enacted That there shall be in each of the said terms two common days of return only, that is to say, the first day, and the Tuesday in the next ensuing week of each term, but that the process in proceedings by bill or otherwise except on original writs, if issued in term, may be tested any day in that term, and be made returnable on any day in the same term, or the next term, and if issued in the vacation may be tested on any day in the preceding term, and be made returnable on any day in the next term.

How writs
to be made
returnable.

And be it further enacted, That all writs and process returnable in the said supreme court, shall be made returnable as follows, that is to say, "Before our justices of our supreme court of judicature, at the city hall of the city of New York, or city of Albany, as the case may be, and proceedings in the said court which have been supposed to be before the people of this State, shall be before the justices of the people of this State State of New York, of the supreme court of judicature of the same people.

Paper may
be used.

And be it further enacted, That it shall be lawful to use paper instead of parchment in all proceedings in the said court, except as to the process of the same.

Issues tried
at the bar.

And be it further enacted, That no issue in any civil cause shall hereafter be tried at the bar of the said supreme court, without the leave of the said court, for that purpose first had and obtained.

Clerks of
the
supreme
court.

And be it further enacted, That there shall be two clerks of the said court, who shall have like powers, be subject to the like duties, and be entitled to like fees for services performed; and that one of the clerks of the said court, shall keep his office in the city of New York, and shall attend the said court, and officiate as clerk thereof, when the same court shall sit in the city of New York, and the other of the said clerks, shall keep his office in the public building in the city of Albany and shall attend the said court, and officiate as clerk thereof when the same court shall sit in the city of Albany; and that it shall be lawful for the justices of the same court from time to time, to direct such records, and papers as they shall think proper to be removed from the clerks office in the city of New York, and deposited in the clerk's office in the city of Albany.

Seals of
the court.

And be it further enacted, That there shall be two seals of the said court, and the descriptions of the same in writing deposited, and recorded in the office of the secretary of this State shall remain as public records: And that each of the said clerks shall have the custody of one of the said seals; and all process, and other proceedings issued under either of the said seals shall be equally valid; *and further* that all costs and judgment rolls in the same court, may be taxed and signed by either of the said clerks.

And be it further enacted, That the recorder of the city of New York, shall be ex-officio a commissioner, equally authorised and required with a judge of the supreme court, in respect to suits and proceedings in the said court, to do and execute every act, power and trust (except taxing costs, and signing judgment rolls,) which according to the practice of the said court, a judge may do and execute out of court. And also to allow writs of habeas corpus and to admit prisoners to bail in all cases & in like manner as any such judge may do.

Recorder
of New
York city.

And be it further enacted, That the said court shall by one or more commissions under the seal of the same, from time to time, as need shall require empower such and so many persons as they shall deem fit in every county, to take affidavits of any person desirous to make the same, concerning any cause or matter depending, or any proceedings to be had in the said court, or in the court of exchequer; and every affidavit so taken, shall be of like force as affidavits taken in the said courts respectively, or before a judge thereof; and that every person who shall commit perjury in any such affidavit, shall incur the same penalties as if such affidavit had been made in open court.

Commis-
sioners to
take aff-
davits.

And be it further enacted, That the person administering the government of this State, is hereby authorised at any time during the vacation of the supreme court, or of any mayor's court, court of common pleas or sessions of the peace in any city or county, if he shall deem it requisite by reason of war, pestilence, or other public calamity, or the danger thereof, that the then next ensuing term, or session of any such court, should be held at a different place from the one where such term or session would be to be held by law, to appoint by writing under his hand, and to be recorded in the secretary's office, and published in such, and so many public news papers, as he may deem requisite for the due notice thereof, such different place for holding such ensuing term or session as he shall deem most eligible, and at any time thereafter during such vacation, to revoke every such appointment, and in like manner to appoint a place anew, to leave such term or session to be held at the place, where by law it would have been held; and whenever such term or session shall be held at any place so appointed, all process shall be returned and all persons shall be held to appear at such place equally as if such term or session was held at the place, where by law the same was to have been held.

Change of
place of
holding
term by
order of
the gov-
ernor.

CHAP. 76.

AN ACT for improving the road from Wattles's ferry on the Susquehannah to the town of Kingston in the county of Ulster.

PASSED the 27th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That Christopher Tappen, Frederick Augustus De Zeng, and Joshua Pine junior, be and hereby are appointed commissioners to lay out, open, and improve the road on the nearest, and most direct rout practicable from Wattles's ferry on the Susquehannah river in the county of Delaware to the town of Kingston in the county of Ulster. And that the road so by them laid out opened and improved, shall be and hereby is declared to be a public highway, and shall be recorded as such by the clerks of the several towns through which the same shall be laid, and it shall not be lawful for the commissioners of

Commis-
sioners to
improve
the road
specified.

any town in the counties of Delaware or Ulster, hereafter to alter or remove said road, unless by so doing the distance will be shortened, and the road made better.

Appropriation.

And be it further enacted, That the treasurer of this State is hereby authorised and directed on the warrant of the comptroller to pay to said commissioners, or either of them who may be qualified to receive the same by virtue of this act, two thousand dollars, out of the proceeds of the third class of the lottery authorized to be drawn by the act entitled, "An act for opening and improving certain great roads within this State passed the 28th March 1797," it being a part of the sum appropriated by said act for improving the road from the house of Stephen Platt in Freehold, to Catharines Town in the county of Tioga.

How certain monies to be applied.

And be it further enacted, That the commissioners appointed by virtue of the above recited act, may expend and lay out the remaining part of six thousand five hundred and ten dollars to be paid them by virtue of the fourth section of said act, in improving the road from Wattless ferry on the west side of the Susquehannah to Catharines Town in Tioga county, any thing in the above recited act to the contrary notwithstanding.

Power of commissioners.

And be it further enacted, That the commissioners hereby appointed, or a majority of them shall have the sole power of expending on said road from Wattless ferry to Kingston, the whole of the money appropriated by this act for opening and improving the same, according to the directions of this act, and to employ as many fit persons under them, as they shall deem proper and necessary, and the said commissioners shall open and repair in the first instance such parts of the road hereby to be made, as they may find impassible for waggons.

Sureties to be furnished.

And be it further enacted, That each of the said commissioners before he enters on the execution of his trust, shall enter into a bond to the people of this State, with such sureties as the comptroller of this State for the time being shall approve of, in a sum equal to the whole sum appropriated to the road by them to be opened and improved, conditioned for the faithful application of the monies to be applied as aforesaid, and which shall be intrusted to him or them according to the directions of this act: Which bond when executed shall be deposited in the office of the comptroller of this State, and in case the said bonds, or any of them shall become forfeited, the monies to be recovered thereon, shall be applied to the use of the road, the improvement whereof the said defaulting commissioner superintended.

Statements to be made

And be it further enacted, That it shall be the duty of said commissioners at the end of every year, until they shall have completed the business confided to them by this act, to make out a full statement of all the improvements which have been made on the said road, and an account of all the expenditures accrued thereon; which statement and accounts, together with the vouchers in support of his or their payments shall be delivered to the comptroller of this State, who shall present such statements, and accounts to the legislature at the then next meeting thereof, with such observations thereon, as he may deem requisite to communicate.

Vacancies, how filled.

And be it further enacted, That in case of the death or refusal to act of all or either of the said commissioners, that it shall and may be lawful for the governor, by and with the advice and consent of the council of appointment, to appoint one or more, (not to exceed three persons,) to be commissioner or commissioners for the purposes aforesaid, who shall have the same powers, and authority as the persons named in this act, and be subject to the same duties in every respect.

CHAP. 77.

AN ACT relative to the court of probates, the office of surrogate, and the granting of administrations —

PASSED the 27th of March, 1801.

I. *Be it enacted by the People of the State of New York represented in Senate and Assembly*, That the judge of the court of probates, of this State shall be vested, with all and singular the powers and authorities, and have the like jurisdiction in testamentary matters, except as is hereinafter otherwise provided, as the governor or commander in chief of the late colony of New York, had and exercised, as judge of the prerogative court, or court of probates of the said colony : Except as to the appointment of surrogates in the several counties : Who shall be appointed by the person administering the government of this State by and with the advice and consent of the council of appointment —

Jurisdiction of judge of probate.

And be it further enacted That the present seal shall continue to be the seal of the said court, and the description thereof deposited and recorded in the office of the secretary of this State, shall there remain as a public record of the same ; *And further* that the said court shall be held in the city or county of Albany, and that the judge and clerk of the said court shall reside within the said city or county. —

Seal of the court.

And be it further enacted, That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, as often as may be necessary to nominate and appoint a surrogate in each of the counties of this State who shall hold his office during the pleasure of the said council ; and that the surrogates now or hereafter to be appointed shall in all cases, except as to persons, who may not at the time of their decease be inhabitants of this State, respectively have sole and exclusive power to take the proof of the last wills, testaments and codicils of all deceased persons, who at or immediately previous to their death shall have been inhabitants of the respective counties of such surrogates, in whatever place the death of such persons may have happened, and to make and issue probates of the same, and grant letters testamentary thereon, and also to grant letters of administration of the goods chattels and credits of all such persons dying intestate, or with the wills annexed where the same shall be requisite ; and that such letters testamentary and letters of administration shall be made in the name of the people of this State and tested in the name of the surrogate, who shall grant the same, and be sealed with his seal of office —

Surrogates, appointment of.

And be it further enacted That each of the surrogates hereafter to be appointed, shall at his own expence cause a seal to be made for his office, in case no seal shall already have been provided, with such device as he shall think proper, upon which seal shall be inscribed the name of the county for which it is to be used and the words "surrogate seal," and shall deliver a description in writing of such seal to the secretary of this State, who shall deposit and record the same in his office; and that such seals, and the seals of the several surrogates already so deposited and recorded in the said office, shall there remain as public records of this State, and be deemed the seals of office of such surrogates respectively —

Seals of surrogate.

And be it further enacted That administration of the goods, chattels and credits of any person dying intestate, shall be granted to the widow, and

Administration, granting of.

or next of kin of the intestate, or some of them, if they or any of them will accept the same, and if not, then except such intestate, died within the city and county of New York, to any other proper person or persons. *Provided however* that no administration shall in any case be granted until satisfactory proof be made before the judge of the court of probates, or surrogate to whom application for that purpose shall be made, that the person of whose estate administration is claimed is dead and died intestate —

Proceed-
ings on
granting of
letters of
admini-
stration.

And be it further enacted, That on every application for letters of administration upon the goods, chattels, or credits of any person dying intestate, other than in the city and county of New York by any person not entitled to the same as next of kin to the intestate, the judge of the court of probates, or surrogate, to whom such application shall be made, shall before the granting of the administration, issue a citation to the next of kin to the intestate, summoning them to appear and shew cause, if any they have, why the administration should not be granted to the person so applying ; which citation shall be served upon the next of kin to the intestate, if to be found in this State, and if not to be found in this State, then a copy of such citation, shall be affixed up in some public place in the town where the intestate did reside at the time of his death at least four weeks before the return thereof ; and in case such intestate did not reside within this State at the time of his death, then in case of such application to the judge of probates, or any surrogate other than those in the southern and middle districts of this State, a copy of the citation shall be published in the news paper printed by the printer for this State, for four weeks successively before the return thereof. And in case of such application to any surrogate in the said southern or middle district, such copy shall be published for the like period in some news paper, printed in the city of New York. And in case it shall be represented, that such intestate left no relations entitled to his estate, then a copy of such citation shall also be served upon the attorney general of this State, at least twenty days before the return thereof —

Records of
surrogate.

And be it further enacted That each of the said surrogates, shall record in books to be provided for that purpose at his own expence all wills proved before him, together with the proof thereof, and all letters testamentary, and of administration by him granted with all things concerning the same ; which records shall be of the same force, as the like records in the office of the judge of the court of probates of this State. *And further*, that all wills proved before the judge of probates, or any surrogate, shall upon demand after the same are recorded, be returned, to the person who delivered the same, or in case of his death, insanity, or removal from this State, shall be delivered to any devisee named therein, or to the heirs or assigns of such devisee, on proof of such death, insanity, or removal, by the oath of one or more witnesses to be taken before such judge or surrogate —

Death or
removal of
surrogate.

And be it further enacted That upon the death or removal from office of any surrogate, the seal of his office, and all original wills, with all records, books and papers belonging to the said office, shall be delivered over to the successor in office, upon the oath of the preceding surrogate, or of his executors or administrators in case of his death.

Citations
to parties
interested.

And be it further enacted, That in all cases where a caveat shall be entered in the office of the judge of the court of probates, or of any surrogate, or any objection be made against the proving of any will, or granting of administration, such judge or surrogate shall cause the parties and witnesses to be cited to appear before him, and hear and determine

the matter in controversy, and grant such probates, letters testamentary or administrations as shall be agreeable to law.

And be it further enacted That the judge of the court of probates and the said surrogates respectively, shall upon granting administration of the goods of any person dying intestate or with the will of such person annexed, take of the person or persons to whom such administration shall be granted, except where the same be granted to a husband of the goods, chattels and credits of his wife, or to the chamberlain of the city of New York as hereinafter mentioned, sufficient bonds to the people of this State, with two or more competent sureties in such penalty, as such judge or surrogate shall think reasonable, respect being had to the value of the estate, with condition as follows, to wit: "The condition of this obligation is such that if the above bounden administrators, or administratrix (as the case may be) of all and singular the goods, chattels and credits of the said deceased, with the will of the said annexed (if there be such will) and not administered by (as the case may be) do make or cause to be made a true and perfect inventory of all and singular the goods chattels and credits, of the said deceased, which have or shall come to the hands, possession or knowledge of the said or into the hands or possession of any other person or persons for the said and the same so made do exhibit or cause to be exhibited (where such bond shall be taken by the judge of the court of probates) into the registry of the court of probates of this State (but where such bond shall be taken by a surrogate) into the office of the surrogate of the county of at or before the expiration of six calendar months, from the date of the above written obligation, and the same goods, chattels and credits, and all other goods, chattels and credits of the said deceased at the time of death, which at any time after shall come to the hands or possession of the said or into the hands or possession of any other person or persons for the said do well and truly administer according to law, or (in case of a will annexed) according to the directions and true intention of the testator or testatrix (as the case may be) expressed in the will to the letters of administration. Granted to the said annexed, and as the law directs; *and further* when thereunto lawfully required do make, or cause to be made a just and true account of administration; and (in case of intestacy) if it shall hereafter appear, that any last will or testament was made by, the said deceased, and the executor or executors therein named, or any person or persons do exhibit the same and request to have it allowed and approved; then if the said being thereunto required, do render and deliver the letters of administration, granted on the estate of the said deceased, to the office from which the same were issued; then this obligation to be void and of none effect, or else to remain in full force and virtue." Which bonds shall be valid and pleadable in any court of justice. And in case any such bond, shall become forfeited, it shall be lawful, for the judge of the court of probates of this State, and surrogates granting administration in such cases respectively, to cause the same to be prosecuted in any court of record at the request of any party, grieved by such forfeiture, and the monies recovered upon such bond shall be applied, towards making good the damages sustained by the not performing the said condition in such manner as the said judge or surrogate (as the case may be) shall by his sentence or decree direct. *And further*, that it shall be lawful, for the judge of the court of probates of this State or any such surrogate to call such administrators to account for and touching the goods chattels and credits, so by them to be administered, and upon hearing

Bonds of
admini-
strators.

and due consideration thereof, to order and make just and equal distribution of what remaineth clear, after debts, funeral charges and just expences of every sort first allowed and deducted, according to law; and the same distributions, to decree and settle, and to compel such administrators to observe and pay the same by due course of law; and also to hear and determine all causes touching any legacy or bequest in any last will and testament, payable or coming out of the personal estate of the testator, and to decree and compel payment thereof; saving to every one the right of appeal—

Process to
compel
performance
of
decrees.

And be it further enacted That if any person shall neglect or refuse to perform any such sentence or decree of the judge of the court of probates of this State, or any surrogate it shall be lawful for the said judge or surrogate to cause such person by process directed to any sheriff of any county of this State to be taken and imprisoned, until such person shall perform the same sentence or decree; and every sheriff is hereby directed to cause all such process to be duly executed, and to confine the persons against whom such process shall be issued as in execution, untill they shall be delivered by due course of law; and if any sheriff shall neglect his duty therein, he shall be answerable to the party grieved, in like manner as he would be answerable upon process of the like nature issuing out of the supreme court—

Estates of
persons
not inhab-
itants of
the State.

And be it further enacted That in all cases of persons dying out of this State, or of persons dying within this State, not inhabitants of this State, their wills may be proved before, and administrations of their personal estates, when necessary be granted by the judge of the court of probates of this State in the manner heretofore used, as well as by any of the said surrogates—

When sur-
rogate
named as
executor.

And be it further enacted That in case any surrogate shall be appointed executor of any last will and testament, the probate whereof might otherwise be granted by such surrogate, it shall be lawful for such surrogate to make and sign a renunciation thereof, and to file the same in his office, and then to proceed in respect to the same last will and testament, in the same manner as if he had not been nominated as an executor thereof; and if such surrogate shall think proper to act as an executor in the execution of such last will and testament, then the same shall be proved before the judge of the court of probates of this State, who shall grant the probate and letters testamentary thereon, but every such will and probate and the letters testamentary thereon, shall be recorded by such surrogate in the book for recording wills in his office.

Chamberlain
of New
York city
to be pub-
lic admin-
istrator.

And be it further enacted That whenever any person shall die intestate, within the city and county of New York and the widow or next of kin, residing within this State, shall not apply, within one week thereafter to the surrogate of the said city and county; or judge of the court of probates (as the case may be) for administration of the goods, chattels and credits of the deceased, such administration shall be granted to the chamberlain of the said city and his successors in office, who shall take the oath by law appointed to be taken by such administrators, and shall give bond, but without sureties for the due administration of the said goods, chattels and credits in the form above directed—

Mayor,
aldermen
and com-
monalty
responsible
for acts of
chamberlain.

And be it further enacted That the mayor, aldermen and commonalty of the city of New York, shall in all cases be responsible for the due administration of such goods, chattels and credits by their chamberlain; and further that such administration shall be subject to be revoked upon the application of the widow, child, father, brother or sister of the deceased if such application be made within three calendar months after

the same shall have been granted, and the balance, if any due to the said administrator, be first paid—

And be it further enacted That the chamberlain of the said city, shall once in every year, at such time as the said mayor, aldermen and commonalty, may for that purpose appoint exhibit to them in common council assembled a statement of his receipts and expenditures by virtue of such administrations respectively, which statement shall be published in at least two of the public news papers printed in the said city for the information of all whom it may concern; and it shall be lawful for the said chamberlain, in the accounts of the said administrations, to charge and retain a commission of five per cent, upon his receipts over and above all his reasonable expences, in and about the said administrations respectively—

Statements to be made by chamberlain.

And be it further enacted That if any balance of any such intestates estate, shall remain in the hands of the said chamberlain, above eighteen months after the committing of administration as aforesaid, the amount thereof shall be published in at least two of the news papers printed in the said city for eight weeks successively, and all persons having any claims upon such estate shall be notified to exhibit the same, with the evidence in support of it, within six months thereafter; and after the expiration of the said six months, the said chamberlain shall pay, such balance, as may remain unclaimed, to the said mayor, aldermen and commonalty, who shall be answerable for the same, but without interest, to such persons as shall thereafter appear to be entitled to the same, if any shall appear, and in the mean time all such sums so paid to the said mayor, aldermen and commonalty, shall be by them applied towards the support of the poor in the said city—

Disposition of balance.

And be it further enacted That upon the death of any person intestate, not leaving a widow or next of kin within the said city, it shall and may be lawful for the special justices for preserving the peace in the said city, or either of them to take such measures as they shall think proper, for guarding and securing the property and effects of such intestate from waste or embezzlement, untill such administration shall be granted as aforesaid; the expences whereof shall be paid by the said administrator in preference to any debts whatsoever, and immediately after the funeral charges of the intestate are discharged—

Effects of persons dying without widow or next of kin.

And be it further enacted That any person who may be sued for any thing done by virtue of this act, relative to the estate of any person dying intestate within the city and county of New York, may plead the general issue and give this act and the special matter in evidence—

Pleas in suits for acts done.

And be it further enacted That when any executor or administrator, whose testator or intestate shall have died, seized of any real estate shall discover or suspect that the personal estate of such testator or intestate is insufficient to pay his or her debts, such executor or administrator shall, as soon as conveniently may be, make a just and true account of the said personal estate and debts, as far as he or she can discover the same, and deliver the said account to the judge of the court of probates, or to the surrogate of the county in which probate of the will, or administration on the estate of any such testator or intestate, shall have been had, and request his aid in the premises; and the said judge or surrogate shall thereupon make an order, directing all persons interested in such estate, to appear before him at a certain day and place in the same order to be specified, not less than six weeks nor more than ten weeks, after the day of making such order, to shew cause why so much of the real estate, whereof such testator, or intestate died seized, should not be sold, as will be sufficient to pay his or her debts;

Sale of real estate to pay debts.

which order shall immediately thereafter be published for four weeks successively in two or more of the public news papers printed in this State, one of which shall be the paper, if any, published in the county where probate of any such will shall be had, or administration granted. And the said judge or surrogate shall at the time and place specified in such order, or at such other time and place, as he may then appoint, hear and examine the allegations and proofs of such executors or administrators, and of all such other persons interested in such estate, as shall think proper to make or offer any; and if upon due examination the said judge or surrogate shall find that the personal estate of such testator or intestate is not sufficient to pay his or her debts, the said judge or surrogate shall order and direct the whole, if necessary, or if not, so much of the real estate of such testator or intestate then remaining unsold, to be sold, as will pay his or her debts; and when only a part of the real estate is ordered to be sold, such order shall specify as particularly as may be the part so ordered to be sold. *Provided always*, that where any houses and lots are so circumstanced that a part thereof cannot be sold without manifest prejudice to the heirs or devisees, such judge or surrogate at his discretion may order the whole or a greater part thereof than is necessary to pay such debt or debts to be sold, and to distribute the overplus money arising from such sale among the heirs and devisees (as the case may be)

Conveyances, how made.

And be it further enacted That all sales of any real estate, to be made by order of the judge of the court of probates, or a surrogate, shall be made and conveyances for the same executed, by the executors or administrators applying for such order; and the conveyances for the same shall set forth, such order at large; and shall be valid and effectual against the heirs and devisees of such testator or intestate and all claiming by, from or under them—

Application of proceeds of sale of real estate.

And be it further enacted, That where only a part of the real estate is ordered to be sold as aforesaid, the monies arising therefrom shall be received by the executors or administrators applying for such order, and shall be considered as assets in their hands for the payment of debts but where the whole real estate is ordered to be sold, the monies arising therefrom shall be brought into the said court of probates or office of such surrogate; and if the same, after deducting all charges and expences, shall not be sufficient to pay all the debts of the testator or intestate; the said judge or surrogate, shall cause the same, after deducting all charges and expences, to be divided among the creditors, in proportion to their respective debts, except as is herein before otherwise directed, without giving any preference to bonds or other specialties. *Provided always*, that before such judge or surrogate shall make any such distribution, he shall cause at least three months notice of the time and place of making the same to be given, by advertising the same in two or more of the public news papers, printed in this State, for six weeks successively, one of which said papers shall be the paper if any printed in the county where such judge of probates or surrogate shall reside. *And provided also*, that no part of the real estate of any testator or intestate, shall be ordered to be sold as aforesaid, unless the executors or administrators shall have duly made and filed an inventory of the goods, chattels and credits of such testator or intestate, before the application for such sale, nor untill the executors or administrators, shall have applied the personal estate or such part thereof as may have come to their hands towards payment of the debts of such testator or intestate: And no more of the real estate shall be sold in any case, than may be necessary, to pay the residue of the said debts. *And provided*

also that nothing herein contained shall be construed to prevent or bar any person from bringing or maintaining any suit or action against any executor or administrator, for or in respect of the personal estate of his or her testator or intestate, or for, or in respect of any waste or misapplication thereof by such executor or administrator.

And be it further enacted That in all cases where a petition shall be presented by any executors or administrators for the sale of the whole or part of the real estate of their testator or intestate, and one or more of the devisees or heirs of such testator or intestate, shall be infants, the judge of the court of probates or the surrogate to whom the same may be presented shall appoint some discreet and substantial freeholder, a guardian of such infant or infants, for the sole purpose of appearing for and taking care of the interest of such infants in the proceedings therein—

Proceed-
ings in case
of infant
heirs.

And be it further enacted That any person claiming to be aggrieved by any sentence, decree or order of any surrogate made in pursuance of this act, may appeal from the same to the judge of the court of probates, *provided* such appeal be entered within fifteen days next after the sentence, decree or order appealed from be made.

Appeals
from de-
crees of
surrogates.

CHAP. 78.

AN ACT relative to the duties and privileges of towns.

PASSED the 27th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the freeholders and inhabitants of the several towns in this State, who are or shall be qualified by law to vote at town meetings, shall assemble together and hold town meetings in their respective towns on the first Tuesday in April in every year, and then and there choose one supervisor, one town clerk, not less than three nor more than five assessors one or more collectors each of whom shall be liable only for the monies which they are respectively directed to collect in such parts of the town as shall be assigned to them by the supervisor, two overseers of the poor, and three commissioners of highways for the same town, each of which town officers before mentioned shall be a freeholder and inhabitant of the same town, and so many constables, fence viewers, and pound masters for the same town, being inhabitants of the same town, as to the freeholders and inhabitants of said town so met, or the major part of them shall seem necessary and convenient; and as many overseers of highways as there are road districts in each of the towns respectively, except in the counties of Suffolk, Queens, Kings and Richmond, and the freeholders and inhabitants of the several towns in those counties to choose as many overseers of highways as they shall deem necessary and convenient: Which said several officers shall hold their respective offices for one year and until others shall be chosen in their places, and in case any of the officers so chosen in any such town shall refuse to serve, or die, or remove out of the town, or become incapable of serving before the next annual town meeting, then and in every such case it shall be lawful for the freeholders and inhabitants of such town to supply every such vacancy in manner aforesaid at a special town meeting to be notified and held for that purpose in the manner hereinafter directed; *provided always* that from and after the present

Town
meetings
and town
officers.

year, in the several towns in the county of Delaware and in the towns of Kingston and Lumberland in the the county of Ulster, and in the several counties in the western district, and in the town of Thurman in the county of Washington the annual town meeting shall be held on the first Tuesday of March in every year, and that all business relating to the said towns which would otherwise be transacted on the last Tuesday of March shall be transacted on the last Tuesday of February in every year.—

How town
meetings
conducted.

And be it further enacted, That for the more orderly holding of town meetings, it shall be, and is hereby made the duty of the justices of the peace for the time being, to attend at every town meeting, hereafter to be held in and for the town in which they respectively reside and that the said justices of the peace, or such of them as shall attend at such meeting, shall preside at and superintend the same, and take care that the business thereof be orderly and regularly conducted, and shall in case of dispute, determine who have and who have not a right to vote or be elected at such meeting, according to law, and if no justice of the peace shall reside in the town at the time of holding such meeting, then the clerk of the town, who was elected at the last preceding meeting; and in case there shall be no justice of the peace, or town clerk attending at any such town meeting, then such person as shall be chosen by the freeholders and inhabitants at such meeting to preside, shall preside at such meeting, and have and exercise all the powers and authorities hereby vested in the justices.

Qualifica-
tions of
voters.

And be it further enacted, That every male person, being a citizen of this State, who shall be above the age of twenty one years, and shall have resided in any town six months next preceding such town meeting, and paid taxes within the same, or shall be possessed of a freehold, or shall have rented a tenement of the yearly value of five dollars, for the term of one year, within the same, shall have a right to vote at such meeting and no other person.

How long
meeting to
be held.

And be it further enacted, That no town meeting shall be held longer than two days and shall only be held open between sunrise and sunset, and shall be held at such place in each town as the freeholders and inhabitants thereof at their town meeting shall from time to time appoint.—

City of
Albany

And be it further enacted, That the freeholders and inhabitants of the city of Albany shall yearly on the first Tuesday in May choose one supervisor, two assessors, one collector being freeholders and inhabitants of the said city and two constables being inhabitants of the same city in each of the wards of the said city. *And further* that the freemen of the city of Hudson being inhabitants thereof shall yearly at their annual election of officers within the said city of Hudson, choose one supervisor and such number of assessors, collectors, constables and overseers of the poor of the same city as the common council for the same city shall from time to time deem necessary and direct to be chosen.

Hudson.

Vacancies,
how filled.

And be it further enacted, That if any of the said cities or towns shall neglect to choose such officers as aforesaid or any of them or in case any of the officers so chosen in and for any city or town shall refuse to serve or die, or remove out of the city or town for which he shall be chosen or become incapable of serving, before the next annual town meeting or election after he shall be chosen and the city or town for which he was chosen shall not within fifteen days next after such refusal, death, removal or incapacity happens, choose another in the room of such person in every such case, it shall and may be lawful for any three of the justices of the peace in the same county residing in such

city or in or near to such town, and they are hereby required to nominate and by warrant under their hands and seals to appoint, all and every such officers as aforesaid, as the freeholders and the inhabitants of the same city or town ought to have chosen as aforesaid, and each of the said officers so appointed shall hold his office for so long time and have the same powers, and be liable to the same penalties as if he had been elected to the same office, by the freeholders and inhabitants of such city or town.

And be it further enacted, That each supervisor, town clerk, assessor, commissioner of highways overseer of highways overseer of the poor, constable, and fence-viewer hereafter to be elected or appointed shall before he enters upon the execution of his office and within fifteen days after such election or appointment, take and subscribe an oath before some justice of the peace in the form hereinafter prescribed for such officers respectively to take; that is to say, every supervisor shall take and subscribe an oath in the following form, to wit, I do solemnly and sincerely promise and swear, that I will in all things to the best of my knowledge and ability faithfully and impartially execute and perform the trust reposed in me as supervisor of the (here insert the name of the place) in the county of (here insert the name of the county) and that I will not pass any account or any article thereof wherewith I shall think the said county is not justly chargeable, nor will I disallow any account or any article thereof wherewith I shall think the said county is justly chargeable. And every town clerk shall take and subscribe an oath in the following form, to wit: "I town clerk of in the county of do solemnly and sincerely promise and swear that I will faithfully and honestly keep all the books records writings and papers by virtue of my said office of town clerk committed and which shall from time to time be committed unto me; and in all things to the best of my knowledge and understanding well and faithfully perform the duties of my said office of town clerk without favor or partiality and every assessor shall take and subscribe an oath in the following form, to wit, I do solemnly and sincerely promise and swear that I will honestly and impartially assess the several persons and estates within the (here insert the name of the place) in the county of (here insert the name of the county) and that in making such assessments I will to the best of my knowledge and judgment observe the directions of the several laws of this State directing and requiring such assessments to be made. And every commissioner of highways shall take and subscribe an oath in the following form to wit; I do solemnly and sincerely promise and swear that I will in all things to the best of my knowledge and understanding well and faithfully execute the trust reposed in me as a commissioner of highways for (here insert the name of the town and county) without favor or partiality—And every overseer of the poor, and constable shall take and subscribe an oath in the following form, to wit: I do solemnly and sincerely promise and swear that I will in all things, to the best of my knowledge, understanding and ability well and faithfully execute and perform the trust reposed in me as an overseer of the poor, or constable (as the case may be) of the (here insert the name of the place) in the county of (here insert the name of the county). And every overseer of highways and fence-viewer shall take and subscribe an oath, in the following form to wit: I do solemnly and sincerely promise and swear that I will in all things to the best of my knowledge and ability well faithfully and impartially execute and perform the trust reposed in me as an overseer of highways or, a fence-viewer (as the case

Oaths of
office.

may be) in the town of (here insert the name of the town) in the county of (here insert the name of the county). *And further* that every justice of the peace before whom such oath shall be taken and subscribed as aforesaid shall without fee or reward certify under the same writing the day and year when the same oath was taken and subscribe his name thereto and then deliver the same writing to the person taking the same oath, who shall within eight days thereafter transmit or deliver the same to the clerk of the town for which such officer so taking such oath was elected or appointed. And if any supervisor, assessor, commissioner of highways, overseer of highways, overseer of the poor, constable or fence-viewer of any town shall not take and subscribe such oath as aforesaid and transmit or deliver the same to the town clerk as aforesaid, within the time hereby limited; or if any collector or constable shall not give such security as is by law required within the time for that purpose limited; then and in every such case such neglect shall be deemed a refusal to serve in such office, and the town in which such officer was chosen may thereupon proceed to a new choice.

Forfeitures
for refusal
to serve or
acting be-
fore taking
oath or
giving bond

VIII. *And be it further enacted*, That if any person hereafter chosen or appointed a supervisor, town clerk, assessor, collector, commissioner of highways, overseer of the poor or constable as aforesaid shall refuse to take upon him or to serve in such office or if any such supervisor, town clerk, assessor, commissioner of highways or overseer of the poor shall proceed in the execution of such office before he shall have taken and subscribed such oath as aforesaid, or if any such collector or constable shall proceed in the execution of his office before he shall have given such security as is or shall be required by law, then and in every such case every person so neglecting, or refusing or doing, shall forfeit to the people of this State the sum of sixty two dollars and fifty cents to be recovered by action of debt or information in any court of record; and the attorney general of this State is hereby required to prosecute for all such penalties and forfeitures and to pay the same when recovered to the treasurer of this State for the use of the people of this State and in every such action or information it shall be sufficient to set forth that the defendant at a certain time and place became indebted to the people of the State of New York, in the sum of sixty two dollars and fifty cents as a forfeiture incurred by reason that the defendant having been elected or appointed (as the case may be) a supervisor, town clerk, assessor, collector, commissioner of highways, overseer of the poor or constable, as the case may be, did refuse to take upon him and to serve in his said office, or did proceed in the execution of his said office without taking and subscribing the oath by law required, or without giving the security by law required, as the case may be, contrary to the form of the "Act relative to the duties and privileges of towns," to be paid to the people of the State of New York aforesaid when he should be thereunto afterwards required, and to give the special matter in evidence. *Provided always* that nothing in this act contained shall be construed to compel any Quaker or reputed Quaker to act as an assessor or collector, who shall affirm, that he hath conscientious scruples about executing the duties of such office.

Id.

And be it further enacted, That if any person hereafter chosen or appointed an overseer of highways, fence viewer, or pound master shall neglect or refuse to take upon him the said office, or if such overseer of highways, or fence-viewer shall proceed in the execution of his office before he shall have taken and subscribed his oath as aforesaid then and in every such case such person shall forfeit and pay the sum of twelve dollars and fifty cents, to be recovered with costs before any justice of

the peace by action of debt; the one moiety thereof to the use of the poor of the town for which such officer was chosen, or appointed, and the other moiety thereof with costs of suit to the use of any person who shall prosecute for the same to effect.

And be it further enacted, That upon the death or expiration of the office of the town clerk of any town all the records, books, writings and papers belonging to the same office, shall be delivered to the successor in office upon the oath of the preceding town clerk or in case of his death upon the oath of his executors or administrators, and if any such preceding town clerk, or his executors or administrators shall refuse or neglect to deliver the same upon oath as aforesaid, being lawfully demanded, every such person shall forfeit to the people of this State for every such refusal or neglect the sum of two hundred and fifty dollars to be recovered by action of debt or by information in any court of record, and the attorney general of this State is hereby required to sue for such forfeiture, and pay the same when recovered to the treasurer of this State for the use of the people of this State—And in every such action or information it shall be sufficient to set forth that the defendant on the day such demand was made became indebted to the people of the State of New York in the sum of two hundred and fifty dollars as a forfeiture incurred by reason that the defendant did neglect and refuse to deliver to the succeeding town clerk the records, books, writings and papers belonging to the same office contrary to the form of the "Act relative to the duties and privileges of towns" to be paid to the people of the State of New York when he should be thereunto required and to give the special matter in evidence.

Town clerk's office.

And be it further enacted, That the freeholders and inhabitants of each of the said towns are hereby authorised at their respective annual town meetings, or at any other town meeting held for that purpose, in their respective towns, from time to time, to make such prudential rules and regulations as the majority of the freeholders and inhabitants of such towns respectively so assembled at their respective town meetings, and having a right to vote there, shall from time to time judge necessary and convenient, for the better improving of their common lands in tillage, pasturage or any other reasonable way; and for making maintaining and amending their partition and circular fences for their lands, gardens, orchards and meadows, and for ascertaining and directing the use and management, and the times and manner of using their common lands and meadows, and other commons, and the times, places and manner of permitting or preventing cattle, horses, sheep and swine, or any of them to go at large, and for impounding all manner of cattle and creatures whatsoever, and for ascertaining the sufficiency of all partition and other fences, and for making and maintaining such and so many pounds, and at such places as may be necessary and convenient, and for ascertaining and limiting the fees to be taken by the fence-viewers respectively, and to impose such penalties on the offenders against such rules and regulations, or any of them; as the majority of such freeholders and inhabitants so assembled shall from time to time deem proper, not exceeding twelve dollars and fifty cents for each offence, to be recovered with costs of suit by the supervisor of the town where the offence shall be committed, in the name of the supervisor of such town, for the use of the same town, by action of debt, before any justice of the peace residing in any other town of the same county; and no such action shall be abated or discontinued by the death or expiration of the office of such supervisor, but may be continued and prosecuted to effect by his successor in office. And all such penalties, when

Rules and regulations for the common weal.

recovered, shall be applied for the use of the town where such offence shall be committed in such manner and for such purposes as the freeholders and inhabitants of the same town where such offence shall be committed at their town meetings, or the majority of them there assembled shall from time to time direct and appoint; *and further* that all such rules and regulations so to be made as aforesaid in each town shall be recorded by the town clerk of the same town in a book by him to be provided for that purpose, and shall remain in full force until the same shall be revoked or altered, or new made in the manner aforesaid, at some subsequent town meeting; all which alterations and new rules and regulations, shall also from time to time be recorded as aforesaid, and shall continue in force until revoked, altered or new made as aforesaid.—

Rewards
for destruc-
tion of
noxious
beasts and
birds.

And be it further enacted That it shall be lawful for the freeholders and inhabitants of each of the said towns at their respective annual town meetings, or at any other town meeting held for that purpose to make such provisions and allow such rewards, for the destruction of wolves, wild cats, foxes, crows, black birds and other noxious wild animals and birds, and to direct such sum of money to be raised in such town for that purpose, and for prosecuting or defending the common rights of such town, as the major part of the said freeholders and inhabitants so assembled at any such town meeting, shall deem necessary and proper; which money shall be raised and levied together with and in the same manner as the money raised in such town for the support of the poor shall be raised and levied.—

Special
town meet-
ings.

And be it further enacted, That whenever it shall be necessary to hold a town meeting in either of the said towns for any of the purposes required by this act, at any time between any of the said annual town meetings due notice thereof shall be given by the town clerk in writing under his hand, specifying the time, place and purposes of such town meeting, and fixed up at four or more of the most public places in the same town at least eight days before the time therein appointed for holding such town meeting and the town clerk of each of the said towns is hereby required to give such notice whenever it shall be necessary to hold such town meeting for electing any of the officers aforesaid in such town, or when he shall be required to do so by any twelve or more freeholders of such town.—

Division
fences.

And be it further enacted, That where the lands or meadows of any two or more persons shall join each other, each of them shall make and maintain a just proportion of the division fence between them, except such person shall choose to let their lands or meadows lay vacant and open and in case any disputes shall arise concerning the part or proportion of the fence to be made and maintained by either party the same shall be settled by the fence viewers of such place where such lands or meadows shall be situated or any two of them, whose decision shall be conclusive; and if any person shall neglect or refuse to make and maintain his or her part or proportion of such fence, or shall permit the same to be out of repair every such person shall be liable to, and shall pay all such damages as shall accrue to his or her neighbors thereby, to be appraised and ascertained by the fence viewers of the same place, or any two of them, not interested therein, and to be recovered with costs in any court having cognizance of the same; and in case the party so neglecting or refusing shall continue such neglect or refusal for the space of one month after notice and request to make or repair such fence, then and in every such case, it shall be lawful for the party injured thereby to make or repair all the said fence at the expence of the party

so neglecting or refusing, to be recovered with costs of suit in any court having cognizance of the same, and in case any person who shall have made his proportion of any such fence shall conclude or be disposed to throw up his said lands or meadow for common feeding or to let the same lay open, such person shall give three months notice thereof to the person or persons in possession of the lands or meadow adjoining, and if such fence shall be removed without giving such notice or before the expiration of the said three months, then the person removing the same shall be liable to make good all such damages as the party injured by such removal shall sustain thereby, to be recovered as aforesaid with costs.

And whereas in some parts of this State the fences inclosing meadow, and low land are frequently injured, destroyed or carried away by floods and high tides, which generally happen in the spring of the year, and the owners of such meadow or low land lose a great part of the profits thereof, for the whole year unless the said fence be speedily repaired or new made, therefore.

Be it further enacted, That in all cases where any such partition fence shall be so injured destroyed or carried away every person who ought by law to make or repair the same shall make or repair the same, or his just proportion thereof within ten days after he shall be thereunto required by any person interested therein, and if any person shall refuse or neglect to make or repair his proportion of such fence for the space of ten days after such request as aforesaid, then it shall be lawful for the party injured thereby to make or repair all the said fence at the expence of the party so neglecting or refusing, and to recover the same with costs in any court having cognizance thereof.

Repairs to
division
fences.

And be it further enacted, That when any distress shall be made of any beasts doing damage, the person distraining, shall as soon as conveniently may be, and within twenty four hours thereafter, make application to the two nearest fence viewers in the same town to appraise and ascertain the damage who shall immediately thereupon go to the place where such damage shall be committed, and view the damage done, and appraise, ascertain and certify under their hands the amount thereof with their fees for the same; and if any dispute shall arise concerning the sufficiency of the fence it shall be determined by the same fence-viewers whose decision shall be conclusive, and the person making the distress shall as soon as he shall think proper and within forty eight hours after making such distress, unless the damage shall be sooner paid, cause the beasts so distrained to be put in the nearest pound in the same county where they shall remain until the sum so certified by the fence viewers, with the fees of the pound master shall be paid or the beasts so impounded be replevied.

Distress of
beasts for
damages.

And be it further enacted, That it shall and may be lawful for the common council of the respective cities of New York, Albany and Hudson to make such rules and regulations for making amending and maintaining the fences in the said cities respectively as well partition fences as others as they shall from time to time judge most proper and convenient.

Fences in
New York,
Albany and
Hudson.

And be it further enacted, That there shall be made and kept one sufficient pound in each city and town of this State, and that it shall and may be lawful for the common council of the several cities of New York, Albany and Hudson from time to time to appoint keepers of the pounds in their respective cities, who shall hold their offices during the pleasure of the said common councils respectively, and that the said respective keepers of the said pounds and the respective pound masters in

Pounds in
the several
cities and
towns.

each town, may take for all beasts that shall be put into the pound of which he is keeper or master the following fees, to wit, for taking in and discharging every horse, gelding, mare, or colt, and all neat cattle, twelve and an half cents each, and for every sheep or lamb three cents, and for every hog, shoat or pig six cents; which fees shall be paid to the said keeper or pound master, by the owner of the beasts impounded, or some person for him, before the said beasts shall be released from such pound, unless the keeper or master of such pound shall otherwise agree concerning the same. And if the owner of any beasts impounded for doing damage shall not pay the damage and the fees of the keeper or master of the pound with reasonable charges for keeping and feeding them, not exceeding three cents for each beast for every twenty four hours, such beast shall be impounded and fed, within six days after such beast shall be impounded or replevy the same beasts, then it shall and may be lawful for such keeper or master of such pound to sell such beast at public vendue, giving at least forty eight hours previous notice of such sale, by advertisement to be set up at the said pound, and at the nearest public place to the said pound; and out of the monies arising from such sale to pay the said damage, and retain in his hands his fees and charges of feeding and keeping the same beast, and of such sale, and return the overplus to the owner of the same beast, and if no such owner shall appear and claim such overplus within six calendar months after such sale, the same shall be paid to the overseers of the poor of the city or town where such beast was impounded, for the use of the poor of such city or town.

Farms intersected by town line.

And be it further enacted, That where any line of any town in this State shall intersect a farm, the possessor of such farm shall pay all his taxes for such farm in the town where his dwelling house shall be.—

Oystering in Hempstead.

And be it further enacted, That the inhabitants of Hempstead shall have and enjoy the right of oystering, fishing and clamming in the creeks bays and harbours of North-Hempstead, and the inhabitants of North-Hempstead shall have and enjoy the like rights and privileges in the creeks, bays and harbours of Hempstead.—

Erection and division of towns.

And be it further enacted, That no town in this State shall be divided nor any new town erected without an application to the legislature by the inhabitants of such town so to be divided, or of the several towns out of which such new town is to be erected, or some of them, accompanied with a map of such town or towns, with the lines of such proposed division or new town marked thereon, and that notice of such intended application shall be given at least ten days previous to the town meeting, in each of the towns to be affected thereby, which notice shall be in writing and affixed on the door of the house where such town meeting shall be held, and shall be subscribed by at least five persons resident, and freeholders in such towns, a copy of which notice shall also be read in such town meeting, to the people there assembled by the clerk of such town immediately before proceeding to the election of town officers.—

Noxious weeds in Essex and Clinton counties.

And be it further enacted, That it shall be lawful for the freeholders and inhabitants of the several towns in the counties of Essex and Clinton at their respective annual town meetings, or at any other town meeting, held for that purpose, to make provision for destroying noxious weeds on the lands of any persons who shall be actually resident in the said towns respectively, at the exclusive expence of such persons.—

Certain town elections on day of gen-

And be it further enacted, That the trustees of the towns of Rochester and Marletown in the county of Ulster, and of the towns of Huntington and Brookhaven in the county of Suffolk, shall respectively

be elected on the day of the general election for town officers of the said towns. eral election.

And be it further enacted, That the freeholders and inhabitants of the town of Westchester in the county of Westchester, may on the day of their annual town meeting, and in the usual manner of electing town officers, choose six freeholders, resident in the town for trustees; and the said trustees or a majority of them, shall and may order and dispose of all or any part of the undivided lands within the said town as fully, to every purpose as trustees have been used to do under any patent or charter to the said town, and may continue to lease out the right and privilege of setting up and keeping a ferry across the East river, from the said town of Westchester, to the town of Flushing in Queens county in like manner, at the same rates of ferriage, under the same rules and regulations, and for the like purposes, as they have lawfully been accustomed to do since the eighteenth day of April one thousand seven hundred and eighty five.— Town of Westchester.

CHAP. 79.

AN ACT to provide for the incorporation of religious societies.

PASSED the 27th of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the male persons of full age, of any church or congregation in communion with the Protestant Episcopal Church in this State, who shall have belonged to such church or congregation for the last twelve months, preceding such election, and who shall have been baptized in the Episcopal Church, or shall have been received therein, either by the right of confirmation, or by receiving the holy communion, or by purchasing or hiring a pew or seat in said church, or by some other joint act of the parties and of the rector, whereby they shall have attached themselves to the Protestant Episcopal Church, and not already incorporated, at any time to meet for the purpose of incorporating themselves under this act, and by a majority of voices to elect two church wardens, and eight vestrymen, and to determine on what day of the week, called Easter week, the said offices of church wardens and vestrymen shall annually thereafter cease, and their successors in office be chosen; of which first election, notice shall be given in the time of morning service, on two Sundays previous thereto by the rector, or if there be none, by any other person belonging to such church or congregation; and that the said rector, or if there be none, or he be necessarily absent, then one of the church wardens or vestrymen, or any other person called to the chair, shall preside at such first election, and together with two other persons, shall make a certificate under their hands and seals, of the church wardens and vestrymen so elected, of the day of Easter week so fixed on for the annual election of their successors, and of the name or title by which such church or congregation shall be known in law; which certificate being duly acknowledged or proved by one or more of the subscribing witnesses, before the chancellor or one of the judges of the supreme court, or one of the judges of the court of common pleas of the county, where such church or place of worship of such congregation shall be situated, shall be recorded by the clerk of such county, in a book to be by him provided for that purpose; and that the church wardens and vestrymen Incorporation of Protestant Episcopal churches.

so elected, and their successors in office, of themselves, but if there be a rector, then together with the rector of such church or congregation, shall form a vestry and be the trustees of such church or congregation; and such trustees and their successors, shall thereupon by virtue of this act, be a body corporate by the name or title expressed in such certificate; and that the persons qualified as aforesaid, shall in every year thereafter on the day in Easter week so to be fixed for that purpose, elect such church wardens and vestrymen; and whenever any vacancy shall happen before the stated annual election, by death or otherwise, the said trustees shall appoint a time for holding an election, to supply such vacancy, of which notice shall be given in the time of divine service, at least ten days previous thereto, and such election, and also the stated annual elections, shall be holden immediately after morning service, and at all such elections the rector, or if there be none, or he be absent, one of the church wardens or vestrymen, shall preside and receive the votes of the electors, and be the returning officer, and shall enter the proceedings in the book of the minutes of the vestry, and sign his name thereto, and offer the same to as many of the electors present as he shall think fit, to be by them also signed and certified, and the church wardens and vestrymen to be chosen at any of the said elections, shall hold their offices until the expiration of the year for which they shall be chosen, and until others be chosen in their stead, and shall have power to call and induct a rector to such church or congregation, as often as there shall be a vacancy therein; *provided however*, that no meeting or board of such trustees shall be held, unless at least three days notice thereof shall be given in writing, under the hand of the rector, or one of the church wardens, and that no such board shall be competent to transact any business, unless the rector, if there be one, and at least one of the church wardens, and a majority of the vestrymen be present, and such rector if there be one, and if not, then the church warden present, or if both the church wardens be present, then the church warden who shall be called to the chair by a majority of voices, shall preside at every such meeting or board and have the casting vote.

Reformed
Protestant
Dutch
churches.

And be it further enacted, That the minister or ministers and elders and deacons, and if during any time there be no minister, then the elders and deacons, during such time, of every Reformed Protestant Dutch Church or Congregation, now or hereafter to be established in this State, and elected according to the rules and usages of such churches within this State, shall be the trustees for every such church or congregation; and it shall be lawful for the said trustees, if not already incorporated, to assemble together as soon as they shall deem it convenient, and execute under their hands and seals a certificate, certifying the name or title by which they and their successors for ever as a body corporate, by virtue of this act, shall be known and distinguished, which certificate being duly acknowledged or proved as aforesaid shall be recorded by the clerk of such county, in a book to be by him provided as aforesaid, and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate; and it shall be lawful for the trustees of any such church or congregation, elected by virtue of any former law of this State by writing under their hands and seals, to be proved, acknowledged and recorded as aforesaid, to declare their will not to continue any longer a body corporate, and thereupon such body corporate shall cease, and all the estate real and personal held by them shall pass to, and be vested in the trustees of such church or congregation made a body corporate in the man-

ner above directed: *Provided always*, that nothing herein contained shall be construed in any manner, to impair or alter the rights of any of the chartered churches within this State.—

And be it further enacted, That it shall be lawful for the male persons of full age belonging to any other church, congregation or religious society, now or hereafter to be established in this State, and not already incorporated, to assemble at the church, meeting house or other place, where they statedly attend for divine worship, and by plurality of voices, to elect any number of discreet persons of their church, congregation or society, not less than three, nor exceeding nine in number, as trustees, to take the charge of the estate and property belonging thereto, and to transact all affairs relative to the temporalities thereof, and that at such election every male person of full age, who has statedly worshipped with such church, congregation or society, and has formerly been considered as belonging thereto, shall be entitled to vote, and the said election shall be conducted as follows; the minister of such church, congregation or society, or in case of his death or absence, one of the elders or deacons, church wardens or vestrymen thereof, and for want of such officers, any other person being a member, or a stated hearer in such church, congregation or society, shall publicly notify the congregation of the time when, and place where the said election shall be held, at least fifteen days before the day of election; that the said notification shall be given for two successive Sabbaths, or days on which such church, congregation or society shall statedly meet for public worship, preceding the day of election; that on the said day of election two of the elders or church wardens, and if there be no such officers, then two of the members of the said church, congregation or society to be nominated by a majority of the members present, shall preside at such election, receive the votes of the electors, be the judges of the qualifications of such electors, and the officers to return the names of the persons, who by plurality of voices shall be elected to serve as trustees for the said church, congregation or society, and the said returning officers shall immediately thereafter certify under their hands and seals, the names of the persons elected to serve as trustees for such church, congregation or society, in which certificate the name, or title by which the said trustees and their successors shall for ever thereafter be called and known, shall be particularly mentioned and described; which said certificate being proved or acknowledged as above directed, shall be recorded as aforesaid, and such trustees and their successors shall also thereupon by virtue of this act be a body corporate, by the name or title expressed in such certificate, and the clerk of every county for recording every certificate of incorporation by virtue of this act, shall be entitled to seventy five cents and no more.

And be it further enacted That the trustees of every church, congregation or society herein above mentioned, and their successors, shall respectively have and use a common seal, and may renew and alter the same at their pleasure, and are hereby authorised and empowered to take into their possession and custody, all the temporalities belonging to such church, congregation or society, whether the same consist of real or personal estate, and whether the same shall have been given, granted or devised directly to such church, congregation or society or to any other person for their use, and also by their corporate name or title, to sue and be sued in all courts of law or equity, and to recover, hold and enjoy all the debts, demands, rights and privileges, and all churches, meeting houses, parsonages and burying places with the appurtenances, and all estates belonging to such church, congregation or

Other churches and congregations.

Powers and duties of trustees.

so elected, and their successors in office, of themselves, but if there be a rector, then together with the rector of such church or congregation, shall form a vestry and be the trustees of such church or congregation; and such trustees and their successors, shall thereupon by virtue of this act, be a body corporate by the name or title expressed in such certificate; and that the persons qualified as aforesaid, shall in every year thereafter on the day in Easter week so to be fixed for that purpose, elect such church wardens and vestrymen; and whenever any vacancy shall happen before the stated annual election, by death or otherwise, the said trustees shall appoint a time for holding an election, to supply such vacancy, of which notice shall be given in the time of divine service, at least ten days previous thereto, and such election, and also the stated annual elections, shall be holden immediately after morning service, and at all such elections the rector, or if there be none, or he be absent, one of the church wardens or vestrymen, shall preside and receive the votes of the electors, and be the returning officer, and shall enter the proceedings in the book of the minutes of the vestry, and sign his name thereto, and offer the same to as many of the electors present as he shall think fit, to be by them also signed and certified, and the church wardens and vestrymen to be chosen at any of the said elections, shall hold their offices until the expiration of the year for which they shall be chosen, and until others be chosen in their stead, and shall have power to call and induct a rector to such church or congregation, as often as there shall be a vacancy therein; *provided however*, that no meeting or board of such trustees shall be held, unless at least three days notice thereof shall be given in writing, under the hand of the rector, or one of the church wardens, and that no such board shall be competent to transact any business, unless the rector, if there be one, and at least one of the church wardens, and a majority of the vestrymen be present, and such rector if there be one, and if not, then the church warden present, or if both the church wardens be present, then the church warden who shall be called to the chair by a majority of voices, shall preside at every such meeting or board and have the casting vote.

Reformed
Protestant
Dutch
churches.

And be it further enacted, That the minister or ministers and elders and deacons, and if during any time there be no minister, then the elders and deacons, during such time, of every Reformed Protestant Dutch Church or Congregation, now or hereafter to be established in this State, and elected according to the rules and usages of such churches within this State, shall be the trustees for every such church or congregation; and it shall be lawful for the said trustees, if not already incorporated, to assemble together as soon as they shall deem it convenient, and execute under their hands and seals a certificate, certifying the name or title by which they and their successors for ever as a body corporate, by virtue of this act, shall be known and distinguished, which certificate being duly acknowledged or proved as aforesaid shall be recorded by the clerk of such county, in a book to be by him provided as aforesaid, and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate; and it shall be lawful for the trustees of any such church or congregation, elected by virtue of any former law of this State by writing under their hands and seals, to be proved, acknowledged and recorded as aforesaid, to declare their will not to continue any longer a body corporate, and thereupon such body corporate shall cease, and all the estate real and personal held by them shall pass to, and be vested in the trustees of such church or congregation made a body corporate in the man-

ner above directed: *Provided always*, that nothing herein contained shall be construed in any manner, to impair or alter the rights of any of the chartered churches within this State.—

And be it further enacted, That it shall be lawful for the male persons of full age belonging to any other church, congregation or religious society, now or hereafter to be established in this State, and not already incorporated, to assemble at the church, meeting house or other place, where they statedly attend for divine worship, and by plurality of voices, to elect any number of discreet persons of their church, congregation or society, not less than three, nor exceeding nine in number, as trustees, to take the charge of the estate and property belonging thereto, and to transact all affairs relative to the temporalities thereof, and that at such election every male person of full age, who has statedly worshipped with such church, congregation or society, and has formerly been considered as belonging thereto, shall be entitled to vote, and the said election shall be conducted as follows; the minister of such church, congregation or society, or in case of his death or absence, one of the elders or deacons, church wardens or vestrymen thereof, and for want of such officers, any other person being a member, or a stated hearer in such church, congregation or society, shall publicly notify the congregation of the time when, and place where the said election shall be held, at least fifteen days before the day of election; that the said notification shall be given for two successive Sabbaths, or days on which such church, congregation or society shall statedly meet for public worship, preceding the day of election; that on the said day of election two of the elders or church wardens, and if there be no such officers, then two of the members of the said church, congregation or society to be nominated by a majority of the members present, shall preside at such election, receive the votes of the electors, be the judges of the qualifications of such electors, and the officers to return the names of the persons, who by plurality of voices shall be elected to serve as trustees for the said church, congregation or society, and the said returning officers shall immediately thereafter certify under their hands and seals, the names of the persons elected to serve as trustees for such church, congregation or society, in which certificate the name, or title by which the said trustees and their successors shall for ever thereafter be called and known, shall be particularly mentioned and described; which said certificate being proved or acknowledged as above directed, shall be recorded as aforesaid, and such trustees and their successors shall also thereupon by virtue of this act be a body corporate, by the name or title expressed in such certificate, and the clerk of every county for recording every certificate of incorporation by virtue of this act, shall be entitled to seventy five cents and no more.

And be it further enacted That the trustees of every church, congregation or society herein above mentioned, and their successors, shall respectively have and use a common seal, and may renew and alter the same at their pleasure, and are hereby authorised and empowered to take into their possession and custody, all the temporalities belonging to such church, congregation or society, whether the same consist of real or personal estate, and whether the same shall have been given, granted or devised directly to such church, congregation or society or to any other person for their use, and also by their corporate name or title, to sue and be sued in all courts of law or equity, and to recover, hold and enjoy all the debts, demands, rights and privileges, and all churches, meeting houses, parsonages and burying places with the appurtenances, and all estates belonging to such church, congregation or

Other churches and congregations.

Powers and duties of trustees.

society in whatsoever manner the same may have been acquired or in whose name soever the same may be held, as fully and amply as if the right or title thereto had originally been vested in the said trustees; and also to purchase and hold other real and personal estate, and to demise, lease and improve the same, for the use of such church, congregation or society, or other pious uses; so as the whole real and personal estate of any such church, congregation or society, other than the corporation of the minister, elders and deacons of the Reformed Protestant Dutch Church of the city of New York, and other than the First Presbyterian Church of the city of New York, shall not exceed the annual value or income of three thousand dollars, and of the said corporation of the minister, elders and deacons of the Reformed Protestant Dutch Church of the city of New York, the annual value or income of nine thousand dollars, and of the said First Presbyterian Church of the city of New York the annual value or income of six thousand dollars; and also to repair and alter their churches or meeting houses, and to erect others if necessary, and to erect dwelling houses for the use of their ministers, and school houses and other buildings for the use of such church, congregation or society, and such trustees shall also have power to make rules and orders for managing the temporal affairs of such church, congregation or society, and to dispose of all monies belonging thereto, and to regulate and order the renting the pews in their churches and meeting houses and the perquisites for breaking of the ground in the cemetery or church yards, and in the said churches and meeting houses for burying the dead, and all other matters relating to the temporal concerns and revenues of such church, congregation or society; and to appoint a clerk and treasurer of their board and a collector to collect and receive the said rents and revenues, and to regulate the fees to be allowed to such clerk, treasurer and collector, and them or either of them to remove at pleasure, and appoint others in their stead, and such clerk shall enter all rules and orders made by such trustees and payments ordered by them in a book to be provided by him for that purpose.—

Meetings of trustees; majority may act.

And be it further enacted, That it shall be lawful for any two of such trustees other than the trustees mentioned in the first section of this act, or their successors, at any time to call a meeting of such trustees, and that a majority of the trustees of any church, congregation or society mentioned in this act being lawfully convened, shall be competent to do and perform all matters and things which such trustees are authorized or required to do and perform, and that all questions arising at any such meeting shall be determined by a majority of the trustees present, and in case of an equal division the presiding trustee shall have a casting vote.—

Terms of office of trustees.

And be it further enacted, That the trustees first chosen according to the third section of this act shall continue in office for three years from the day of their election, and immediately after such election the said trustees shall be divided by lot into three classes, numbered one, two, and three, and the seats of the members of the first class, shall be vacated at the expiration of the first year; of the members of the second class at the expiration of the second year; and of the members of the third class, at the expiration of the third year; to the end, that the third part of the whole number of trustees, as nearly as possible, may be annually chosen; and the said trustees, or a majority of them, shall at least one month before the expiration of the office of any of the said trustees, notify the same in writing to the minister or in case of his death or absence, to the elders or church wardens, and in case there shall be no

elders or church wardens, then to the deacons or vestry-men of any such church, congregation or society, specifying the names of the trustees, whose times will expire and the said minister or in case of his death or absence, one of the said elders or church wardens, or deacons, or vestry-men, shall in manner aforesaid, proceed to notify the members of the said church, congregation or society, of such vacancies, and appoint the time and place for the election of new trustees to fill up the same, which election shall be held at least six days before such vacancies shall happen; and all such subsequent elections shall be held and conducted by the same persons, and in the manner above directed, and the result thereof certified by them, and such certificate shall entitle the persons elected to act as trustees, and in case any trustee shall die or refuse to act or remove within the year, notice thereof shall be given by the trustees as aforesaid, and a new election appointed and held, and another trustee be elected in his stead in manner aforesaid.

And be it further enacted, That no person belonging to any church congregation or society intended by the third section of this act, shall be entitled to vote at any election succeeding the first, until he shall have been a stated attendant on divine worship in the said church, congregation or society, at least one year before such election, and shall have contributed to the support of the said church, congregation or society, according to the usages and customs thereof; and that the clerk to the said trustees shall keep a register of the names of all such persons as shall desire to become stated hearers in the said church, congregation or society, and shall therein note the time when such request was made, and the said clerk shall attend all such subsequent elections, in order to test the qualifications of such electors in case the same should be questioned.

Qualifications of voters at church elections.

And be it further enacted, That nothing in this act contained shall be construed or taken to give to any trustees of any church, congregation or society the power to fix or ascertain any salary to be paid to any minister thereof, but the same shall be ascertained by a majority of persons entitled to elect trustees at a meeting to be called for that purpose and such salary when fixed shall be ratified by the said trustees or a majority of them by an instrument in writing under their common seal, which salary shall thereupon be paid by the said trustees out of the revenues of such church, congregation or society.

Salary of ministers.

And be it further enacted, That every corporation and the trustees or persons intrusted with the care and management of the temporalities of any church, congregation or religious society already incorporated or which may hereafter be incorporated in the cities of New York, Albany or Schenectady or a majority of them respectively, shall once in every three years, and between the first day of January and the first day of April, triennially, to be computed from the first day of January last exhibit upon oath to the chancellor, or to one of the justices of the supreme court, or any of the judges of the court of common pleas in the county where such church, congregation or society shall be situated, an account and inventory of all the estate, both real and personal belonging at the time of making such oath to the church, congregation or society for which they respectively are trustees or managers as aforesaid, together with an account of the annual revenue arising therefrom; and if any such trustees or persons intrusted as aforesaid shall neglect to exhibit such account and inventory for a longer space of time than one year after the expiration of every three years as aforesaid, such trustees or persons intrusted as aforesaid shall from thenceforth cease to be a body corporate. And in every case where it shall appear from such

Churches in New York, Albany and Schenectady.

account and inventory that the annual revenue of any church, congregation or religious society in either of the said cities exceeds the sum which by virtue of any charter or law they may or can respectively hold and enjoy, it shall be the duty of the chancellor justice or judge before whom the same shall be so exhibited to report the same together with such account and inventory to the legislature at their next meeting.

Churches chartered by Colony of New York.

And be it further enacted, That it shall be lawful for every religious corporation, created by letters patent under the great seal of the Colony of New York, to have, hold and enjoy lands, tenements, goods and chattels of the yearly value of three thousand dollars although the letters patent by which such corporation was created, should contain a clause or clauses restricting and limiting the annual revenue and income of such corporation to a less sum than the said three thousand dollars.—

Corporations heretofore organized.

And be it further enacted, That every corporation of any church, congregation or religious society heretofore made in pursuance of any law of this State and in conformity to the directions contained in this act shall be and the same is hereby established and confirmed and such corporation shall be deemed to have commenced from the time of recording such certificate as aforesaid, and in case of the dissolution of any such corporation or of any corporation hereafter to be formed in pursuance of this act by reason of a non compliance with the directions herein contained the same may be re-incorporated in the manner prescribed in this act at any time within three years after such dissolution, and thereupon all the estate real and personal formerly belonging to the same shall vest in such corporation as if the same had not been dissolved; *provided* that in such case the said account and inventory required to be exhibited by such corporation in the cities of New York, Albany and Schenectady shall be exhibited within one month after such re-incorporation and triennially thereafter as above directed.

Methodist Episcopal Church in New York city.

And be it further enacted, That the corporation of the Methodist Episcopal Church in the city of New York shall be and hereby are authorised to continue to elect nine trustees of the said corporation in the same manner as if that number of trustees had originally been named in the certificate of incorporation, and such trustees shall be classed or continue to be classed in the manner prescribed by the sixth section of this act.—

CHAP. 80.

AN ACT for the more effectual prevention of fires and to regulate buildings in the city of New York.—

PASSED the 27th of March, 1801.

Restrictions on buildings within certain limits.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That all dwelling houses, store houses and other buildings which from and after the passing of this act shall be built or erected within the city of New York, that is to say, within that part of the said city to the northward of the point of the battery, and included between the said point of the battery, and a line beginning upon the East river in a direct line from the corner of Montgomery and Cherry streets, thence down Cherry street to Pearl street, thence down Pearl street to Beekman street, thence through Beekman street to Chatham row, thence down Chatham row and across Broadway to Partition street; thence through Partition street across Greenwich and Washington streets

to Hudson's river, including also the lots of ground on the northwardly and eastwardly sides of the said streets, through which the above mentioned line runs, shall be made and constructed of stone or brick, with party or fire walls, rising at least six inches above the roof, and shall be covered, except the flat roof thereof, with tile or slate or other safe material against fire and not with boards or shingles; *provided* such flat do not exceed two fifth parts of such roof and that there be erected around the same flat a substantial balcony or balustrade.—

And be it further enacted, That if any dwelling house, store house or other building whatsoever shall be erected or roofed contrary to this act, the proprietor or proprietors thereof shall for every such offence forfeit and pay the sum of five hundred dollars, and the workmen who shall build or roof such dwelling house, store house, or other building contrary to this act, whether he be the proprietor or not shall for every such offence forfeit and pay the sum of two hundred and fifty dollars, to be recovered with costs of suit in any court of record within this State by the treasurer or chamberlain of the said city for the use of the poor thereof, and when recovered shall be appropriated by the common council of the said city in the same manner as the monies raised by tax for the maintenance of the poor of the said city are by law directed to be applied, and no such action or suit shall be abated or discontinued by the death, resignation, removal from office or other change of such treasurer or chamberlain, but shall and may be continued and prosecuted to effect by his successor in office. Penalty for violations.

And be it further enacted, That all dwelling houses, store houses and other buildings whatsoever which after the passing of this act shall be built or erected within the said city eastwardly and northwardly of the line herein before described and to the south and west of a line beginning at the outlet of the meadow of Anthony Lisenpard into Hudson's river, and thence running to and along the north side of the dwelling house late of Nicholas Bayard esquire deceased, thence to and along the north side of the dwelling house of John R. Livingston, and thence to and along the north side of the dwelling house of Abraham Cannon to the East river, and which from the surface or level of the street or ground to which such building shall adjoin either in the front or in the rear to the foot of the rafter shall be more than twenty five feet, shall be made and constructed of stone, or brick with party or fire walls rising at least six inches above the roof, and shall be covered except the flat roof thereof with tile or slate, or other safe materials against fire, and not with boards or shingles, *provided* such flat do not exceed two equal fifth parts of the space of such roof, and that there be erected around the same a substantial balcony or balustrade.— Restrictions on buildings within certain other limits.

And be it further enacted, That if any dwelling house store house or other building whatsoever shall be erected or roofed contrary to this act, the proprietor or proprietors thereof shall for every such offence forfeit and pay the sum of four hundred dollars, and the workmen who shall build or roof such dwelling house, store house, or other building contrary to this act, whether he be the proprietor or not shall for every such offence forfeit and pay the sum of two hundred dollars to be recovered with costs of suit in any court of record within this State by the treasurer or chamberlain of the said city for the use of the poor thereof, and when recovered shall be appropriated by the common council of the said city in manner aforesaid, and no such action or suit shall be abated or discontinued by the death, resignation, removal from office or other change of such treasurer or chamberlain, but shall and may be continued and prosecuted to effect by his successor in office. And the Penalty for violations.

more effectually to prevent the erection of any such dwelling house, store house or other building within the said city contrary to this act,—

What
buildings
deemed
public
nuisances.

Be it further enacted, That every such dwelling house, store house, or other building which after the passing of this act shall be erected or roofed within the said city contrary to this act, shall be deemed a common and public nuisance, and the justices of the supreme court and the justices of the courts of oyer and terminer or gaol delivery and the justices of the courts of general sessions of the peace, shall within the said city have cognizance of such offences, and are hereby enjoined and required in all and every of the charges thereafter to be made or given by them to the grand juries in their respective courts, strictly to charge such grand jurors diligently to enquire of, and to present all offences against this act, and the court to which an indictment or presentment shall be preferred for such offence shall be and hereby is impowered and enjoined to prosecute such indictment or cause the same to be prosecuted in the usual manner of prosecution; and upon conviction to adjudge such fines and penalties as they in their discretion shall think fit and proper; and also in their discretion to cause such nuisance to be abated and removed.—

New roofs
of build-
ings.

And be it further enacted, That if any dwelling house, store house or other building already erected and now covered with boards or shingles within the said city southward and westward of the line last mentioned, shall at any time hereafter require to be new roofed it shall and may be lawful for the proprietor or proprietors thereof to roof the same with boards or shingles or in such other manner as was customary before the passing of this act, any thing herein before contained to the contrary notwithstanding.—

Roofs and
spires of
public
buildings.

And be it further enacted, That all roofs, steeples, cupolas and spires of churches and other public buildings may be covered with boards and shingles; and all privies not exceeding ten feet square and fifteen feet in height, and all fire engine houses of the corporation, and all lime houses which shall be erected by the express permission of the corporation, may be built of wood and boards, or brick and stone and covered with boards or shingles, any thing in this act to the contrary notwithstanding.

Storage of
sulphur,
hemp and
flax.

And be it further enacted, That from and after the passing of this act, no greater quantity of sulphur than ten hundred weight, and no greater quantity of hemp or flax than twenty hundred weight shall be put, stored, or kept in any one place in the city of New York to the southward of the fresh water, in the sixth ward, nor to the southward of Rutgers slip in the seventh ward, other than in such proper place or places as shall be appointed and approved of by the mayor, aldermen and commonalty of the said city in common council convened, under the penalty of twenty five dollars for every offence or refusal to remove the same to be recovered with costs of suit in any court of record within this State, by the treasurer or chamberlain of the said city, to be applied as the other penalties of this act are directed to be applied.

Act recited
repealed.

And be it further enacted, That the act entitled "An act for the more effectual prevention of fires and to regulate buildings in the city of New York and to repeal and explain certain acts therein mentioned" passed the 8th of April 1796 and the amendment thereto," passed the 3d April 1797 and the acts therein mentioned and thereby repealed shall except as to the double taxes thereby imposed and already incurred and except as to suits now depending be and hereby are repealed.—

Storage of
pitch, tar

And be it further enacted, That no pitch, tar, turpentine, rosin, spirits of turpentine linseed oil or shingles shall be put in any place in the

city of New York to the southward of fresh water other than in such places as shall be appointed and approved of by the mayor, aldermen and commonalty of the said city under the penalty of twenty five dollars for every offence or refusal to remove the same to be sued for and recovered with costs before any court having cognizance of debts to that amount by any person who will sue for the same, and when recovered to be paid to the chamberlain of the said city for the use of the poor thereof; *provided however* that it shall be lawful for any of the ship chandlers in the said city to keep in any inclosure within the limits aforesaid a quantity of pitch, tar, rosin or turpentine not exceeding in the whole twenty barrels at any one time.

and other inflammable materials.

And be it further enacted, That if any person shall fire or discharge any gun, pistol, rocket, cracker, squib or other firework in any street lane or alley, garden or other inclosure or from any house or in any other place where persons frequently walk to the southward of the fresh water, every such person, for every such offence, shall forfeit and pay two dollars and fifty cents to be sued for, recovered and applied as aforesaid; and in case any such offender be a slave the owner or possessor of such slave shall be answerable in the same manner as if the act had been done by such owner or possessor.

Discharge of fireworks.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city in common council convened, and they are hereby required, from time to time as often as it shall be necessary to appoint a sufficient number of strong, able, discreet, honest and sober men, willing to accept such appointment, being freeholders or freemen of the said city, to have the care management working and using the fire engines, and the other tools and instruments now provided, or hereafter to be provided for extinguishing of fires within the said city, which persons so to be appointed, shall be called the firemen of the city of New York, and who with the engineers of the same city, are hereby required to be ready at all times, as well by night as by day, to manage, work and use the same fire engines and other the tools and implements aforesaid.—

Appointment of firemen.

And be it further enacted, That the persons so to be appointed firemen and every of them during their continuance in that office, and no longer, shall be exempted from serving in the office of constable and from being impannelled or returned upon any juries, or inquests, and of and from militia duty within the said city, except in cases of invasion or other imminent danger; and the names of all firemen, to be appointed by virtue of this act, shall be registered with the clerk of the peace of the said city, and his certificate shall be sufficient evidence in all courts and cases of such exemption. *And further* that it shall be lawful for the mayor, aldermen and commonalty of the said city in common council convened to remove all or any of the firemen now appointed or to be appointed by virtue of this act when and as often as they shall think fit and to appoint others in their stead.—

Exemptions of firemen.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city in common council convened to make and ordain such rules and regulations in respect of the government and duty of the persons by them appointed firemen in the working managing and frequent exercising, trying and using of the same fire engines tools and other instruments, and to impose and establish such reasonable fines, penalties and forfeitures upon them, or any of them, for default or neglect of the duties and services thereby to be required from them as they shall from time to time think proper.—

Regulations to govern firemen.

Peace officers; duty in case of fire.

And be it further enacted, That upon the breaking out of any fire within the said city, the sheriff, deputy sheriffs, constables and marshals (upon notice thereof) shall immediately repair to the place where such fire shall happen with their rods, staves and other badges of authority and be aiding and assisting as well in the extinguishing of the said fires and causing the persons attending the same to work as in preventing any goods or household furniture from being stolen at such fires, and shall seize all persons whom they find stealing or pilfering, and the officers aforesaid shall also give their utmost assistance to the inhabitants in removing and securing their said goods and furniture; and in the execution of the duties required from them by this act shall be obedient to the orders of the mayor, recorder and aldermen of the said city, or such of them as shall be present at such fires.—

Fire buckets to be kept by inhabitants

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city in common council convened, by ordinances by them for that purpose to be made, to direct the inhabitants, or owners of houses and other buildings in the said city to furnish themselves with such and so many fire buckets, to be ready in their respective houses and other buildings for the purposes of extinguishing fires which may happen in the said city, and to impose and establish such reasonable fines, penalties and forfeitures, for every neglect, default or disobedience thereof, as they shall think proper.—

Buckets lost at fires

And be it further enacted, That in case any person shall lose any bucket at any fire which may happen in the said city, and shall within sixty days thereafter make proof thereof before the mayor, recorder or one of the aldermen of the said city of the value of such bucket, and that the same was actually lost or destroyed in that service, in such case the mayor, aldermen and commonalty of the said city in common council convened, shall by warrant under the hand of the mayor or recorder presiding at such common council, directed to the chamberlain of the said city, order the value of such bucket to be paid to such person so making proof of the loss thereof, out of any monies remaining in his hands for the contingent expences arising in the said city, and if any person shall at any time thereafter be convicted of having taken a false oath touching the premises, such person shall incur the penalties of wilful and corrupt perjury.—

Buckets found.

And be it further enacted, That if any such bucket so proved to be lost shall afterwards be found, the property thereof shall thenceforward be in the mayor, aldermen and commonalty of the city of New York, unless the owner thereof will take back the same and return the money allowed and paid for the loss thereof.

CHAP. 81.

AN ACT more effectually, to discover and apprehend offenders in the city of New York.

PASSED the 27th of March, 1801.

Police office established.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That for the more effectually discovering and apprehending offenders in the city of New York an office shall continue in the said city to be denominated the police office in the city of New York, and to be kept at such place as the mayor, aldermen and commonalty of the said city shall from time to time provide and assign.

And be it further enacted, That it shall be lawful for the chancellor, every of the judges of the supreme court, the mayor, recorder and every of the aldermen of the said city, whenever they shall severally deem the occasion to require it, to be in the said office and then and there to do every act which they shall deem requisite to be done by them, as conservators of the peace. Officials to attend at police office.

And be it further enacted, That two justices shall be appointed as often as it shall be deemed necessary, each of whom shall be denominated in the commission to him a special justice, for preserving the peace in the city of New York, and shall within the said city, execute the like authorities which are by law vested in justices, as conservators of the peace. And there shall also as often as it shall be deemed necessary, be a clerk appointed to be denominated in the commission to him, the clerk of the police office in the city of New York; and one of the said special justices at least and the said clerk, shall daily, and throughout the day (Sundays and convenient intervals for refreshment excepted) attend in the said police office for the execution of their respective trusts. *Provided however* that the persons now holding the said offices of special justice and clerk as aforesaid, shall continue to hold the same until others shall be appointed and commissioned in their stead. Special Justices.

And be it further enacted, That all recognizances from parties to appear and answer, or from witnesses to appear and testify, and all examinations of parties charged with offences, and depositions of witnesses respecting offences taken elsewhere in the said city than in the said police office shall forthwith be lodged in the said police office by the chancellor, judge, mayor, recorder, special justice or other magistrate, taking the same, and every recognizance for the appearance of parties or of witnesses, at any court to be held in the said city, and every examination or deposition respecting offences, charged to have been committed in the said city, taken in any other county, shall be transmitted by the magistrate taking the same, to the clerk, to be lodged in the said police office; and as often as any recognizance for the appearance of parties or witnesses, at any court to be held in any other county, or any examination or deposition respecting offences charged to have been committed in any other county, shall have been taken or lodged in the said police office, the clerk shall transmit the same to the clerks of the respective counties; that at every term of the supreme court, and at every sessions of oyer and terminer and gaol delivery, and of the peace, to be held in the said city, the clerk of the said police office shall deliver into court all recognizances, which shall then be in the said police office, for the appearance of persons at the said courts respectively, together with all examination and depositions which shall then be in the said police office, respecting offences charged to have been committed in the said city. That it shall among other things be required of the said clerk, to reduce to writing all examinations and depositions, and to make out in due form all recognizances and all warrants and other precepts, which shall be made, taken or issued, before or by any magistrate in the said police office, and generally to do and perform all such services and business in the said police office, as shall be to be done and performed in writing; and to do and perform every such other reasonable services and business relating to his trust, as shall be required of him by the magistrates or magistrate, who, at the time, shall be and attend in the said police office, and to have the charge and custody of all recognizances, examinations and depositions which shall have been taken or lodged in the said police office, until the same shall be delivered into the respective courts, or transmitted to Recognizances and depositions to be filed in police office.

the respective counties, as the case shall be, and of all other papers in the said police office.—

Recognizances for good behavior.

And be it further enacted, That if any recognizance shall be taken before any court within the said city, for good behaviour, or keeping the peace, a certified copy of the record thereof taken from the minutes forthwith shall be lodged by the clerk of the court, in the said police office; and all recognizances from persons obtaining licenses or permits to retail strong or spirituous liquors within the said city in future, shall be lodged in the said police office, and it shall be the duty of the said special justices, at all times to be vigilantly observant of the demeanor of the several persons bound by any such recognizance, in respect to the matters for which they shall be so respectively bound, and if at any time there shall appear to either of the said special justices, probable cause for supposing any such recognizance to have become forfeited, the clerk of the said police office shall thereupon estreat such recognizance into the court of exchequer, with a memorandum of the facts from which such cause shall have arisen, and of the names, occupations and places of abode, of the witnesses to prove such facts.—

Salary of justices and clerks.

And be it further enacted, That there shall be allowed to each of such special justices a salary at the rate of seven hundred and fifty dollars per annum together with such fees as are by law allowed to justices of the peace; and to the said clerk of the said police office, a salary at the rate of seven hundred and fifty dollars per annum: But this provision shall not be deemed to prohibit the mayor, aldermen and commonalty of the said city in common council convened from making such farther and additional allowance to the said special justices and clerk, and to provide for the farther expences of the said police office as they shall judge necessary and proper; and the whole of the said expences, comprehending the said salaries, shall be deemed a part of and shall be defrayed as the other contingent charges of the said city and county.

Examination of persons arrested by night-watch.

And be it further enacted, That it shall be the duty of the said justices, or one of them, to examine all persons apprehended and detained in custody by the night watches of the said city and to make such order thereon, as the circumstances of each case and justice, shall require, and likewise to superintend and direct the discharge of the said watch every morning, upon the conclusion of the service of the night.

Authority of justices in certain cases.

And be it further enacted, That the said special justices and each of them shall by virtue of their said office, have and exercise the like powers as may be lawfully exercised out of the sessions by the aldermen of the said city, in relation to all cases of bastardy, and to all cases respecting apprentices, servants and vagrants or vagabonds arising within the said city, and shall also have power to take recognizances of special bail and to administer oaths in causes depending in the court of common pleas called the mayors court of the said city, and to take affidavits to be read in the same court, and shall be entitled thereupon to the like fees as the said aldermen respectively would be entitled to receive—

CHAP. 82.

AN ACT concerning a glebe lot in Kingsborough in the town of Johnstown.

PASSED the 27th of March, 1801.

Preamble.

WHEREAS the inhabitants of the western allotment of Kingsborough in the town of Johnstown, in the county of Montgomery, by their peti-

tion presented to the legislature, set forth, that the late Sir William Johnson has formerly given a memorandum to his then tenants, of the western allotment of Kingsborough, promising to execute to them a deed for fifty acres of land lying in the said western allotment of Kingsborough, adjoining to the lands of Captn. Peter Service and Christopher Service for the encouragement of the settlers, the instruction of their children, and for the use of the church; and that the petitioners and their ancestors, both Lutheran and Dutch Reformed, have occupied the said lot near forty years, and that the said lot hath not been sold by the commissioners of forfeitures, and have prayed the aid of the legislature in the premises: Therefore,

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That all the estate, right, title, interest, claim and demand of the people of this State, in and to the triangle or lot of ground, set apart by the said Sir William Johnson as aforesaid, lying in the western allotment of Kingsborough in the town of Johnstown, in the county of Montgomery, bounded easterly by lot number three hundred and ninety eight, southwardly by lots number three hundred and ninety nine and number four hundred, and north westerly by lot number seventy seven; which triangle, or lot of ground, became forfeited to the people of this State by the attainder of Sir John Johnson shall be, and hereby is granted to and vested in the trustees of the Reformed Protestant German Lutheran Church or congregation of the western allotment of Kingsborough in the town of Johnstown in the county of Montgomery and State of New York and to and in the elders and deacons of the Reformed Protestant Dutch Church of the western allotment of Kingsborough and their successors forever, in trust, and for the use, of the said two congregations, for the purpose of maintaining the gospel, and school for the instruction of their children: And that it shall and may be lawful for the trustees aforesaid, and the elders and deacons aforesaid, and their successors respectively, to make partition of the said tract or lot of land between the said two congregations, and to make and execute deeds or releases each to the other, of their respective share or moiety: And the same shall then and from thenceforth be severally held by each of the said congregations respectively. *Provided nevertheless,* that there shall be reserved out of the said lot, to the use of the said two congregations one acre of land, now used as a burying ground, in the westerly corner or angle of the said lot; which said burying ground shall be and remain forever, as and for a burying ground, and be converted to no other purpose whatever.

Grant of
lands to
churches
named.

CHAP. 83.

AN ACT for the relief of Samuel Broome and Jeremiah Platt.

PASSED the 27th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly That it shall be lawful for the comptroller to draw his warrant on the treasurer in favor of Samuel Broome and Jeremiah Platt which the treasurer is hereby directed to pay, for the amount of duties, which it shall appear to the comptroller upon satisfactory evidence have been paid by the said Samuel Broome and Jeremiah Platt to John Lamb late collector of the port of New York on such goods as were reshipped by them from the said port of New York for the port of

Appropriation to persons named.

New-Haven subsequent to the first day of August in the year of our Lord one thousand seven hundred and eighty four. *Provided* that such sums shall not exceed one thousand eight hundred and twenty-eight dollars five cents.

CHAP. 84.

AN ACT for the relief of the inspectors of the State prison.

PASSED the 27th of March, 1801.

Preamble. WHEREAS the monies heretofore advanced by the legislature, as a capital stock for the purchase of tools and raw materials for the manufactures carrying on in the State prison, have been found inadequate; and it appears by a report of the inspectors of the said prison, that in order to promote the public good, and the interest of the said institution, they have borrowed on their own credit, the sum of twelve thousand dollars, which have been employed in manner aforesaid and in repairing and strengthening the said prison; and it being reasonable and just that the same should be reimbursed; therefore,

Appropriation for prisons. *Be it enacted, by the People of the State of New York, represented in Senate and Assembly,* That it shall be lawful for the treasurer on the warrant of the comptroller, to pay to the said inspectors, the said sum of twelve thousand dollars, to reimburse them for the sum borrowed by them as aforesaid; which sum it shall be lawful for the comptroller to borrow from the bank of New York; *provided* that no part of the said sum shall be borrowed of the said bank, or be paid to the said inspectors, until they shall have accounted with the comptroller of this State according to law, and he be satisfied that the said sum first above mentioned, has been borrowed and expended in the manner aforesaid.

CHAP. 85.

AN ACT to vest certain powers in the freeholders and inhabitants of part of the town of Water Vliet.

PASSED the 30th of March, 1801.

Incorporation of part of Watervliet (Colonie). *Be it enacted, by the People of the State of New York, represented in Senate and Assembly,* That it shall and may be lawful for the owners of houses or land as well as the freeholders and inhabitants qualified by law to vote at town meetings and resident within that part of the town of Watervliet in the county of Albany comprehended within the limits following, to wit; beginning on the west bank of Hudson's river and in the northeast corner of the bounds of the city of Albany, and extending northerly along the said river to a point on its west bank distant one mile from the place of beginning on a straight line, thence north fifty degrees west one mile, thence southerly on such course as to intersect the north bounds of the city of Albany at one mile from the place of beginning, thence easterly along the same north bounds to the place of beginning, to assemble annually on the second Tuesday in May in every year at such place and at such time of the day as the trustees for the time being, or the major part of them shall by public advertisement appoint, and under the direction of the said trustees or such of them

as shall be present, who are hereby made inspectors of such election, then and there by a plurality of voices to elect five discreet inhabitants being freeholders to be trustees as aforesaid, who shall continue in office until the second Tuesday of May in the next ensuing year, and until others shall be chosen in their place.

And be it further enacted, That the said trustees and their successors are hereby enabled to take a grant or grants, feoffment or feoffments of any lands and tenements lying and being within the limits aforesaid and to hold the same to them and their successors forever, in trust to and for the common use and benefit of the freeholders and inhabitants aforesaid.

Powers of trustees.

And be it further enacted, That the said owners of houses or land, and the said freeholders and inhabitants at their annual meetings to be held as aforesaid, and at such other times of the year as the said trustees or a majority of them may think necessary to advertise for the purpose, shall be and they are hereby authorised from time to time to make such prudential rules and regulations as a majority of such owners of houses or land, and freeholders and inhabitants so assembled and having a right to vote, shall judge necessary and convenient, for the better improving their common lands, and for ascertaining and directing the use and management thereof; and also to ordain and establish such prudential rules and orders relative to the cleansing and keeping in order and repair the common streets and highways within the limits before mentioned, and for removing nuisances therefrom, and also to make and ordain rules and regulations proper to compel the housekeepers to furnish themselves with a sufficient number of fire buckets, and with necessary tools and implements for extinguishing fires, and to impose such penalties on the offenders against such rules and regulations, or any of them as the majority of such owners of houses or land and freeholders and inhabitants so assembled shall from time to time deem proper, not exceeding five dollars for any one offence, to be recovered by the said trustees, and in their own names with cost of suit for the use of the said owners of houses or land, and freeholders, and inhabitants, by action of debt before any justice of the peace residing in the county.

Regulations concerning common lands, streets, etc.

And be it further enacted, That the said trustees, and their successors shall from time to time, appoint one fit person to be a common clerk for the said owners of houses or land and freeholders and inhabitants, whose duty it shall be to record all rules and regulations made by the said owners of houses or land, and freeholders and inhabitants at their meetings as aforesaid, in a proper book to be by him provided for such purposes, and also to do and perform all such matters and things as the said trustees or a majority of them shall lawfully from time to time by writing under their hands direct and appoint; and the said trustees and their successors shall make such prudential rules and regulations, as they or a majority of them shall deem proper for regulating cleansing, paving and repairing the streets, and doing all and singular such acts as the freeholders and inhabitants might lawfully do: *Provided always* that the powers hereby in this last paragraph given to the trustees aforesaid shall be exercised only when the freeholders and inhabitants neglect or refuse to make the regulations contemplated by this act to be made by them.

Clerk, appointment and duties.

Paving of streets.

And be it further enacted, That it shall and may be lawful to and for the said trustees or the major part of them, and they are hereby required from time to time to appoint a sufficient number of men willing to accept, not to exceed twenty in number out of the inhabitants within the limits aforesaid, to have the care, management, working and use of the

Firemen to be appointed.

fire engine or engines, belonging or which may belong to the said owners of houses or land, and freeholders and inhabitants, and also the tools and instruments for extinguishing fires; and the said trustees or the major part of them are hereby authorised and empowered to remove or displace all or any of the firemen, so as aforesaid to be appointed, when and as often as they shall think fit, and others in their stead to appoint, and also to make, establish and ordain such rules and regulations for the government, conduct, duty and behaviour of such firemen as to them shall appear necessary and proper.

Tax levy
to be or-
dered at
annual
meeting.

And be it further enacted, That it shall and may be lawful for the said owners of houses or land, and freeholders and inhabitants at their annual meeting for electing trustees by majority of voices to determine what sum in the aggregate shall be raised, levied, and collected from the said owners of houses or land, and freeholders and inhabitants resident within the said limits for paving and other improvements on the highways therein, and to empower the said trustees to apportion the sum so to be raised amongst the said owners of houses or land, freeholders and inhabitants, in proportion to the advantages which they shall deem to result to each from any such repairs or improvements. *Provided always* that such sum shall not in any year exceed the sum of two hundred and fifty dollars; and shall in like manner raise a sum sufficient to purchase an engine, for the more effectual extinguishing fires within the said limits, or within the city of Albany, and shall in like manner apportion to each his or her proportion of the expence.

CHAP. 86.

AN ACT to provide against infectious and pestilential diseases.

PASSED the 30th of March, 1801.

Health
officers in
New York
city.

I. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That there shall continue to be a health office in the city of New York, under the superintendence of three commissioners, who shall consist of a health-officer, and of a physician to be styled "the resident physician, and one other person; that the health officer shall reside at Staten Island, the resident physician in the city of New York and the other commissioner at or near the marine hospital on Staten Island or in the city of New York, as a majority of the said commissioners may deem most proper: That the said commissioners shall be appointed by the person administering the government of this State by and with the advice and consent of the council of appointment; *provided however* that the persons now holding and exercising the office of commissioners aforesaid, may continue therein until others shall be appointed in their stead; *and provided further,* that it shall be lawful for the mayor, or in his absence, the recorder of the city of New York, in case of the death or resignation of any of the said commissioners, to appoint a suitable person to supply such vacancy, until the sense of the council of appointment shall be declared thereon.

Vessels
subject to
quaran-
tine.

II. *And be it further enacted,* That all vessels arriving in the port of New York, from any port, island, or other place in the East Indies, or from any port, island, or other place on the coast of Africa, or from any port, island or other place in the Mediterranean, or from any port, island or other place in the South Seas, or from any port, island, or other place in the West Indies; or from any port, island or other place whatever in

America lying to the southward of Georgia, or from any port or other place in the Bermuda Islands, at any time in any year, or from any foreign port, place or island whatever, between the last day of May and the last day of October in any year, shall be subject to quarantine of course, and to the examination of the health officer, under the regulations herein prescribed; and that all vessels arriving in the port of New York, from any port, island, or other place in the United States, south of Sandy Hook, between the first day of June and the first day of October in any year, shall anchor at the place assigned for quarantine, and shall be subject to such regulations as vessels, which are to perform quarantine of course, if on the examination of the health officer, it shall by him be deemed expedient, and that any master or commander of a vessel offending in the premises shall be considered as guilty of a misdemeanor, and on conviction thereof, shall for each offence be fined by the court having cognizance of the same in a sum not exceeding two thousand dollars, or be imprisoned for a time not exceeding twelve months.—

III. *And be it further enacted*, That whenever a vessel shall arrive at the anchoring place for vessels at quarantine from a place where a malignant or pestilential fever prevailed, or if during her voyage, any person has died, or been sick on board with such fever the master, owner or consignee shall forthwith upon the requisition and under the direction of the health officer, whose duty it shall be to make such requisition, cause such vessel to be unloaded, cleansed and purified, and that until then, no permit shall be granted for her to proceed to the city of New York; and every master, owner or consignee neglecting or refusing to comply with such requisition of the health officer, shall be considered guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding five hundred dollars, or be imprisoned for a time not exceeding six calendar months by any court having cognizance thereof.—

When vessel to be quarantined.

IV. *And be it further enacted*, That whenever any vessel shall arrive at the quarantine ground, between the first day of June, and the first day of October in any one year, from a place to the southward of the latitude of Sandy Hook, the master or person having the charge of such vessel, shall forthwith upon the requisition of the health officer cause all the wearing apparel, bedding and every other thing on board, likely in the opinion of the health officer, to communicate infection to be landed, for the purpose of being cleansed with water, or otherwise purified, under the direction of the commissioners of the health office by persons to be employed by them, during which cleansing, they shall if necessary, furnish any indigent person with change of apparel, at the expence of the health office, the same to be afterwards returned to the said commissioners. *Provided* that it shall not be the duty of the commissioners to employ persons to cleanse and purify any part of the cargo of any vessel, and that until such requisition shall be complied with, no such vessel shall have a permit to proceed to the city of New York. And that every master or person having charge of a vessel so circumstanced, neglecting or refusing to comply with such requisition shall be considered guilty of a misdemeanor and upon conviction thereof be fined in a sum not exceeding two hundred dollars, or be imprisoned for a time not exceeding three calendar months, by any court having cognizance thereof—

Cleansing of bedding and apparel.

V. *And be it further enacted*, That it shall be lawful for the governor of this State, or in his absence, the mayor of the city of New York, or in the absence of both of them, the recorder of the said city from time to time, whenever it shall appear advisable, to issue publicly his order, declaring whatever description of vessels to be therein designated

Power of governor or mayor to extend quarantine.

together with the ports, islands or countries whence they come, shall also be subject to quarantine. That in like manner it shall be lawful for him to issue his proclamation, prohibiting or regulating the intercourse by land, and ferries between the city and countie of New York, and any other place where he shall learn that a pestilential or infectious disease doth prevail, and that all persons offending in the premises shall be liable to punishment as for a misdemeanor by fine and imprisonment at the discretion of the court having cognizance thereof; *and moreover*, it shall be lawful for the said commissioners of the health office to cause any vessel subject to quarantine which before she shall have been so visited, examined and reported as aforesaid, shall be brought to anchor elsewhere in the port of New York, and all vessels, though not described in this act, or in such order as above mentioned, as vessels subject to quarantine, or having on board a person sick with a disease; which in the judgment of the health officer, there is reason to believe is infectious, or having on board articles, suspected of containing infectious matter whether brought from foreign countries, or generated or accumulated on board, to be removed to, and brought to anchor at the anchoring place for vessels at quarantine; and to cause all persons, articles or things which may have been landed, to be seized and arrested, and to be returned forthwith on board such vessel, or removed to the said hospital; and it shall be further lawful for them to cause all persons who shall come into this State, contrary to the prohibitions and regulations in such order or proclamation as aforesaid, to be apprehended, and if well to be conveyed out of this State, whence they last came, and if sick to be removed to the said hospital —

Permits to approach beyond quarantine station.

VI. *And be it further enacted*, That no vessel subject to the examination of the health officer, shall approach the city of New York beyond the place assigned for quarantine, without a written permit for that purpose from him, and that the master or commander of every such vessel, arriving at the city of New York; shall within twenty four hours after such arrival deliver such permit to one of the commissioners of the health office, resident in the said city, and every master or commander neglecting or refusing to comply with either of these directions, shall for every such offence be considered guilty of a misdemeanor, and on conviction thereof, shall be fined by any court having cognizance thereof, in a sum not exceeding two hundred dollars, or be imprisoned for a time not exceeding twelve months.

How long quarantine to continue. Duty of pilots.

VII. *And be it further enacted*, That quarantine shall continue for such time, as to the health commissioners shall seem proper, and no vessel otherwise subject to quarantine, shall be exempted therefrom, by reason of having previous thereto, entered into any of the ports in the United States, unless such vessel shall have remained in such port for fourteen days; and the several branch pilots and their deputies belonging to the port of New York, shall use their utmost endeavours to hail every vessel coming into the said port from sea, and shall ask and demand of the master or commander of every such vessel, whether he has on board any person or persons, labouring under any pestilential or infectious disease, or whether there is on board any cloathing or freight containing pestilential or infectious matter, and whether the sickness, if any, broke out on board, or existed amongst the inhabitants of the port from whence the vessel last sailed, and on being answered in the affirmative to any of the said questions, shall immediately give notice, to the master or commander of such vessel, that he subject his vessel, crew, passengers and cargo to quarantine, and shall forbid him to proceed further than the anchorage assigned for quarantine, and shall direct him

to anchor his vessel there, and to remain there until he shall receive further directions from the commissioners of the health office or in their default from the governor of this State, or in his absence from the mayor or recorder of the aforesaid city, and all such commanders of vessels are strictly forbid from putting on shore, any person who belonged to, or performed the voyage in such vessel, and from unloading or putting on board of any other boat or vessel, any person or persons, cloathing, goods, merchandize or freight from or out of his vessel until direction to that effect shall be given him, pursuant to this act; and every master or commander of any vessel who shall give false information relative to the condition of his vessel, crew, passengers, freight or cargo, when hailed by any pilot, or shall notwithstanding being forbid by such pilot bring his vessel nearer the city, than the ground assigned for quarantine, or land any passengers, or unlade any of his cargo, shall be considered as guilty of a misdemeanor, and on conviction thereof, shall be fined by the court having cognizance of the same, in the sum of two hundred dollars for each offence; and every passenger, or any other person on board such vessel departing therefrom, or unlading any of the cargo thereof, without leave first obtained from the commissioners aforesaid, shall be considered, as guilty of a misdemeanor, and be punishable (if convicted) in like manner as the master and commander last mentioned.

VIII. *And be it further enacted* That it shall be the duty of every pilot who conducts a vessel into the port of New York, to take care, that no violations of this act are committed by any person on board, and if any such are committed and not reported by such pilot to the health officer, as soon as may be, such pilot shall be considered as guilty of a misdemeanor and shall be fined in a sum not exceeding two hundred dollars. *And further* that it shall be the duty of every such pilot to deliver such printed extracts from this act as shall be entrusted to him by the health officer for that purpose to every master of a vessel piloted by him into the port of New York, and that every pilot for neglecting or refusing so to do, shall be deemed guilty of a misdemeanor, and punishable as last aforesaid —

Penalty for neglect by pilot.

IX. *And be it further enacted*, That it shall be lawful for the health officer, and he is hereby authorized and required without delay to enter on board of every vessel, coming into the port of New York under the circumstances aforesaid, and there to make strict search, examination and enquiry, as to the health of the officers, seamen and passengers, and into the state and condition of the vessel, her cargo and contents respectively, and to report his discovery and opinion thereon, with all speed to the health office for the consideration of the commissioners of the health office, and if any person shall oppose or obstruct the health officer from performing the duties required of him by this act, he shall be considered as guilty of a misdemeanor and shall be fined in a sum not exceeding five hundred dollars —

Health officer to examine vessels.

X. *And be it further enacted*, That if any person shall go on board, or have any communication or dealings with any vessel lying at quarantine, without permission first obtained in writing with the signature of the health officer, he shall be considered and adjudged guilty of a misdemeanor, and upon complaint being made by either of the commissioners, to one of the justices of the peace, for the city and county of New York, he shall issue a warrant, commanding some proper officer to bring the person so complained of forthwith before him or some other justice of the peace, for the city and county of New York, and the said justice before whom the said offender shall be brought, shall then and there demand of the said offender, that he or she shall enter

Penalty for going on board of quarantined vessel without permission.

into recognizance with sufficient surety in the sum of one hundred dollars, to appear at the next court of general sessions of the peace to be holden in the city and county of New York, to answer unto the said complaint, of which offences the said court is hereby authorized and empowered to take cognizance, and to impose such fines as by them shall be thought proper, not exceeding the sum of two hundred dollars, and if such offender upon being brought before the justice, shall neglect or refuse to enter into recognizance as aforesaid, the said justice shall commit him to the common goal of the city and county aforesaid, commanding the keeper thereof, to receive and keep the said offender in the said goal, until he shall enter into recognizance as aforesaid, or be discharged by due course of law, and in all cases mentioned in this act, when offenders are required to enter into recognizance, the justices aforesaid shall, if required proceed in manner aforesaid —

Restrictions at the quarantine ground.

XI. *And be it further enacted*, That no boat from any outward or inward bound vessel, shall land at the quarantine ground after sunset nor shall boats of any description at any time pass through the range of vessels lying at quarantine, and that any person offending against either of these directions shall be considered as guilty of a misdemeanor and shall be fined in a sum not exceeding fifty dollars.

Report of health officer on each vessel; boat to be furnished.

And be it further enacted, That after the said health officer, shall have visited and examined each vessel performing quarantine, it shall be his duty whenever he shall judge the same to be clean, safe and free from infection, to report her to the health office, that further directions may be given concerning her procedure and the disposal of whatever freight, cargo or materials she may contain; and for the better performance of his trust, the health commissioners shall furnish him at all times, when he shall require it, with a convenient boat, with men sufficient to row the same, and for that end, it shall be lawful for them to contract with any person for that purpose, and in order that the said health officer may be more effectually enabled to make examination, whether vessels ought to be subject to quarantine, it shall be lawful for him to put all such questions to the persons on board such vessels as shall be needful and proper to that end, and the persons to whom such questions shall be put, may be required to answer the same on oath, which oath, he is hereby authorized to administer accordingly, and every person, swearing falsely in the premises, shall be liable to the pains and penalties of wilful and corrupt perjury —

Purification of vessels.

And be it further enacted That if in the judgment of the health officer or resident physician, any vessel arriving in the port of New York, shall require purification, it shall be his duty to direct the time and manner in which such purification shall take place and the expences thereof shall be defrayed by the master, commander, owner, or consignee of such vessel, and the master, commander owner or consignee of every such vessel for every neglect, or refusal to comply with, and to aid in the execution of such direction, shall be considered as guilty of a misdemeanor, and on conviction thereof; shall be fined by any court having cognizances of the same, in a sum not exceeding one thousand dollars —

Penalty for refusal of master to obey orders of health officer.

And be it further enacted, That if the master, commander, owner or consignee of any vessel arriving in the port of New York, shall neglect or refuse to remove such vessel, to the place, and in the time required, by the commissioners of the health office, it shall be the duty of the said commissioners, and they are hereby empowered to cause the same to be done, at the expence and risque of such master, commander, owner or consignee, and the monies so expended, shall be recoverable by the said

commissioners with cost by an action on the case in their own names, against such master, commander, owner or consignee, in any court having cognizance thereof—

And be it further enacted, That every person keeping a boarding or lodging house in the city of New York between the first day of June, and the first day of November in any year, shall within twelve hours after any seafaring man or sojourner, shall become sick in such boarding or lodging house, report in writing the name of such diseased person to the health officer; and that no master of a vessel or any other person whatever, shall remove any sick person from any vessel lying at any wharf, or in the harbour of the city of New York, before the name of such sick person, has been reported to the health office, and a written permit granted for the purpose of such removal; and that any person neglecting or refusing to comply with either of these directions, shall be considered guilty of a misdemeanor, and be fined in a sum not exceeding one hundred dollars, or be imprisoned for a time not exceeding six months by any court having cognizance thereof—

Reports by
lodging-
house
keepers.

And be it further enacted, That no cotton or hides, damaged coffee or damaged peltry, shall be brought into the city of New York between the first day of June and the first day of November in any year, and no coffee or peltry whatever within the period aforesaid, unless authorized by the commissioners of the health office after having been examined. And that if any of the articles aforesaid be brought into the said city in violation of this act, it shall be the duty of the said commissioners to seize and sell the same and to apply the neat proceeds thereof to the use of the health office—

Certain
articles to
be landed
only on
permit.

And be it further enacted, That every person practising physic in the said city, who shall have a patient labouring under a pestilential or infectious disease, shall forthwith make a report in writing to some one of the said commissioners of the health office, and for neglecting so to do, he shall be considered guilty of a misdemeanor, and be fined in a sum not exceeding fifty dollars.—

Reports by
physicians.

And be it further enacted, That all persons and things within the city of New York, infected by or tainted with pestilential matter, which in the opinion of the commissioners of the health office, ought to be removed from the said city, shall by order of the said commissioners, be sent to the marine hospital. *Provided always* that the expences in the said marine hospital, of all persons who shall at any time be removed thereto, from the city of New York, having gained a legal settlement in the said city, and who shall not have sufficient means to pay for their board, medicine and attendance, shall be deemed to be, and shall be borne and paid as part of the contingent expences of the said city—

Removals
to marine
hospital.

And be it further enacted, That all persons removed to the said marine hospital, other than those who have paid hospital money, shall be liable to pay a reasonable sum for their board, medicine and attendance therein, and if any of them deemed to have sufficient means, shall refuse or neglect to pay such sum, as they may be reasonably charged with, the same shall be sued for and recovered from them, by the said commissioners, by an action on the case in their own names.

Liability
for care at
hospital.

And be it further enacted, That the hospital erected, on the easterly part of Staten Island, shall continue to be denominated the marine hospital, and shall, together with the other buildings and improvements, made or to be made thereon, at the discretion of the said commissioners, and the land adjoining the same and belonging to the people of this State, be holden by the commissioners of the said health office, in trust for the use of the people of this State, and the purposes specified in this

Marine
hospital.

act; and all vessels subject to quarantine shall come to anchor as near as may be to the said hospital, which is hereby declared to be the anchoring place for vessels at quarantine ; that the said health officer, shall be physician of the said hospital and the said commissioners of the health office, shall in other respects have the superintendence thereof, and employ mates, nurses and attendants, and provide bedding, cloathing, fuel, provisions, medicine and such other matters as shall be requisite therein; and it shall be lawful for them to make reasonable rules and orders, for the government and management of the said hospital —

Public excluded from hospital grounds.

XXI. *And be it further enacted*, That no person unless authorized by the health officer, shall go within a line, to be designated upon the land belonging to the people of this State, round the marine hospital aforesaid by the commissioners of the health office, and that every person so transgressing shall be considered guilty of a misdemeanor, and be fined in a sum not exceeding one hundred dollars, or be imprisoned for a time not exceeding thirty days, by any court having cognizance thereof. — And that the public highway which passes through the said land shall be within four months from the time of passing this act stopped up by the commissioners of highways of the town in which such land is situate, and another public highway opened as near as may be convenient with the approbation of the health officer —

Discharges from hospital; escapes.

And be it further enacted, That every diseased person, duly landed or sent to the marine hospital, shall be there kept and maintained, until the health officer shall grant him or her a discharge in writing; and if, before obtaining a discharge as aforesaid, any such person shall elope or be absent beyond the line limited and designated as above mentioned, it shall be lawful for the health officer, or any constable, or other person whom he shall call to his assistance ; and they are hereby enjoined and required to pursue and apprehend the person so eloped or absent, and there again deliver him or her to be detained until discharged as aforesaid, and any person so eloping or absents from the marine hospital, or any diseased person in the marine hospital refusing or neglecting to obey the directions of the health officer, and the orders and regulations of the commissioners of the health office, shall be considered as guilty of a misdemeanor, and as such shall be punishable by any court having cognizance thereof —

Care of seamen in hospital.

And be it further enacted, That the master, commander or owner of every vessel, leaving any seaman or sailor belonging to such vessel sick in the said hospital, other than those seamen who pay hospital money, shall pay unto the commissioners such sum or sums of money, as have been expended on him or them for their board attendance and medicine, during the time they were in the said hospital to be sued for and recovered from such master, commander or owner by the said commissioners, by an action on the case in their own names —

Colors of quarantine.

And be it further enacted, That colors designating a vessel subject to quarantine, shall be fixed in the main shrouds, halfway between the main deck and the topmast of such vessel, and there remain until the expiration of her quarantine, and that if the master or commander of any such vessel shall not comply with this direction, or if the master or commander of any vessel not subject to quarantine, shall exhibit such signal, or continue such signal, after being ordered by the health officer to remove it, he shall forfeit for every such offence, the sum of fifty dollars, and the further sum of three dollars for every hour, he shall so offend, to be recovered by the commissioners of the health office with costs in an action of debt in their own names, in any court having cognizance thereof —

And be it further enacted, That upon complaint being made in writing, by one or more of the commissioners of the health office, to the wardens of the port of New York, charging any pilot with neglect or violation of any of the duties herein prescribed or enjoined upon him, it shall be the duty of the said wardens of the port, forthwith to suspend such pilot from piloting any vessel until he shall have entered into recognizance before one of the justices of the peace for the city and county of New York, in the sum of two hundred dollars, with sufficient sureties to answer to the offence wherewith he is charged, at the next general sessions of the peace, to be held in the city and county of New York, which offence, the said court is hereby authorized to try and determine, and to impose such fine as they may deem proper, not exceeding the sum of one hundred and twenty five dollars, and it shall be the duty of every pilot who shall conduct any vessel subject to quarantine into the port of New York, to land immediately at the health office stairs and to leave at the said health office in writing subscribed by him, the name of such vessel, and also the name of her commander, and the name of the place from which she last came or sailed; and every pilot neglecting or refusing to perform any of the duties required of him by this act, or permitting any vessel or boat, to come along side of such vessel which such pilot shall have the direction of, or permitting any thing to be thrown into such vessel or boat, shall in addition to the above penalties, forfeit for every such offence, the sum of twenty five dollars to be recovered by the commissioners of the health office with costs, in an action of debt in their own names, in any court having cognizance thereof.

Complaints
against
pilots.

And be it further enacted, That it shall be lawful for the said health officer, whenever he shall judge it necessary to prevent infection, to cause any bedding and cloathing arriving in a vessel subject to quarantine, to be destroyed, and that it shall be lawful for the commissioners of the health office when in their opinion it shall be necessary for the public safety to procure and employ occasionally medical advice and assistance, the expence of which shall be considered and settled as part of the contingent expences of the city and county of New York.

Destruction
of
clothing
and
bedding.

And be it further enacted, That all the fines and penalties imposed and received under this act shall be paid to the said commissioners, to be by them applied towards defraying the expences of the health office —

Applica-
tion of
fines.

And be it further enacted, That the said commissioners or either of them, are hereby authorized and required to demand and receive, and in case of neglect or refusal, to sue for and recover in their own names, or in the name of either of them, with costs of suit, from the captain or commander of every vessel, which shall hereafter enter the port of New York from any foreign port, the following sums of money, to wit: For each captain or commander, or cabin passenger, one dollar and fifty cents, for each steerage passenger, seventy five cents, and for each mate, sailor or mariner, seventy five cents, which several sums shall be demandable of the captain or commander of every such vessel, and on payment thereof, every such captain or commander shall and may lawfully demand and receive from every such person on whose account respectively the same shall have been paid, the monies so paid, and the said monies so to be received by the said commissioners or either of them, shall be appropriated by them to the use of the health office, deducting therefrom the sum of two and an half per cent, which they are hereby authorized to retain as a compensation for collecting the same.

Fees of
health
officer.

And be it further enacted, That the compensation of the resident physician, and of the other commissioner other than the health officer,

Salary of
commis-
sioners.

physician,
health
officer, etc.

shall be to each of them one thousand dollars per annum to be paid out or the monies by this act appropriated for compensating the commissioners of the health office, and that the health officer shall be entitled to receive as physician to the said hospital the sum of five hundred dollars per annum to be paid as aforesaid, and also for his services in searching and examining vessels from foreign ports in pursuance of this act, the sum of seven dollars and fifty cents for each vessel so by him examined, to be paid by the master or commander of the same; and for visiting coasting vessels in pursuance of this act when subject to quarantine the sum of four dollars, for each vessel so visited by him in person to be paid by the master or commander thereof: And the health officer shall also be entitled to receive from the master or commander of every vessel arriving in the port of New York, from any port, island or other place in the United States, south of Sandy Hook, between the first day of June and the first day of October in any year the sum of four dollars, for each vessel above one hundred tons, and the sum of two dollars for each vessel of or below one hundred tons, so visited by him, excepting all boats arriving in the harbour of New York from any port or harbour on the shores of New Jersey, between Sandy Hook & Cape May, or any part of Long Island —

Account
to be annu-
ally ren-
dered.

And be it further enacted, That it shall be the duty of the said commissioners, to account annually to the comptroller for all monies received by them for the use of the health office, and if the same, shall in any one year, be more than sufficient to defray the expence of executing the trust committed to them, exclusive of such expences, as are to be borne and paid as part of the contingent charges of the city of New York, and including the annual compensations herein before granted to the said commissioners, then and in such case, the said commissioners, shall pay the residue thereof into the treasury of this State; and if at any time the money received by the said commissioners, should not be sufficient for the purposes aforesaid, it shall be lawful for the person administering the government of this State, upon the application of the said commissioners to direct the comptroller to issue a warrant to the treasurer, to pay to the order of the said commissioners, such sum as he may think necessary for the purposes aforesaid, not exceeding in the whole, two thousand five hundred dollars in any one year —

Regula-
tions con-
cerning
streets,
yards,
vaults, etc.

XXXI. And be it further enacted, That it shall be lawful for the said commissioners of the health office or a majority of them, as they shall judge advisable, to make and execute rules and orders for cleansing and scouring the streets, alleys, passages, curtilages, sewers, yards, cellars, vaults, sinks, and other places, where filth and corruption collect within the said city, and for removing all offensive, noxious or putrid articles or substances which may be stored or otherwise collected within the said city; and all necessary expences for carrying the said rules and orders into effect, where the same relate to the cleansing of such places, as are not the property of private individuals, shall be deemed as part of the contingent expences of the said city, and the monies for defraying the same shall be raised in like manner as the other contingent expences of the said city; and where the same shall relate to the cleansing such places as are the property of individuals such expences shall be paid by the owners or occupiers thereof. *Provided* all such rules and orders, shall be reported to, and may be suspended or repealed at any time by the person administering the government of this State —

Manufac-
tories cre-
ating
noxious

XXXII. And be it further enacted, That whenever the city of New York, or any part thereof, shall be annoyed or rendered foul by any manufactory, trade, work or business, producing noxious vapors, or

highly offensive smells, or by any place where noxious or putrid substances shall be stored or collected within the said city, it shall be the duty of the said commissioners, or a majority of them, if in their opinion, the public health or that of individuals shall be endangered thereby, to proceed forthwith to such place or places, and to make due inquiry, and strict examination respecting the same, and that it shall be lawful for them or either of them, whenever it may be necessary, to require the aid or assistance of a justice of the peace and constable in making of such inquiry and examination, who are hereby authorized and required to break open, whenever admittance cannot otherwise be obtained, the door or doors of such place, where such manufactory, trade, work or business is carried on, producing or affording such noxious vapor or highly offensive smell; or where such offensive substances are deposited, and if the said commissioners, or a majority of them, shall judge any such, manufactory, trade, work, business or repository, to be carried on or kept in such manner as to be a nuisance, they shall declare it so in writing to the owner thereof or in his absence to such workman, clerk, keeper, or one of the family as they may then find on the premises, and at the same time shall require the removal, abatement, or discontinuance of the said nuisance, as the case may require, within the time to be limited in the said writing and if on the expiration of the said time, the same order shall not have been complied with, it shall be the duty of the mayor or recorder of the said city upon representation thereof to either of them made by the said commissioners or a majority of them immediately to issue a warrant under the hand & seal of the said mayor or recorder, directed to the sheriff of the said city, commanding him forthwith without delay to cause to be removed, abated or discontinued such nuisance, and the person to whom such declaration and requisition in writing as aforesaid shall be made, shall besides for not complying therewith, be considered as guilty of a misdemeanor, and on complaint being made thereof in writing, by any one or more of the said commissioners to any one of the justices of the peace of the said city, it shall be the duty of such justice to bind the person so complained of, in a recognizance with sufficient surety in the sum of two hundred dollars, for his appearance at the next general sessions of the peace in the said city to answer to the said charge, and on due proof thereof, it shall be lawful for the said court to impose a fine on the person or persons so offending in a sum not exceeding one hundred dollars, out of which fine the expences of removing, abating, or causing to be discontinued such nuisance shall be paid —

vapors,
etc.; stor-
age of
putrid sub-
stances.

And be it further enacted, That nothing in this act contained shall be construed to interfere with the remedies against nuisances prescribed by the common law.

Common-
law reme-
dies not
affected.

And be it further enacted, That all vessels having on board any person infected with any malignant or pestilential fever or coming from any place whatsoever infected therewith, shall not come into any of the ports or harbours of this State, until they shall have performed quarantine, for such time, and in such manner as the persons hereinafter mentioned shall think proper to direct; to wit, for the cities of Albany and Hudson, and upon Hudson's river opposite to the said cities, and within one mile above or below the same, the person administering the government of this State and in his absence from the said cities respectively the mayor, and in his absence, the recorder of the said cities respectively and for any town in this State bordering or lying upon any port or harbour of this State, and upon the waters opposite to the same towns any two or more justices of the peace residing therein; and if any per-

Quaran-
tine at
places
other than
New York
city.

son subject to quarantine as aforesaid, shall violate any of the regulations to be prescribed, respecting the same as aforesaid he shall be considered guilty of a misdemeanor and shall be fined by any court having cognizance thereof in a sum not exceeding five hundred dollars —

Quarantine measures.

And be it further enacted, That it shall be lawful for the said persons hereby authorized to execute this act in the said cities of Albany and Hudson and for any two or more justices of the peace in any town of this State, to take effectual measures to prevent the introduction and spreading of any infectious distemper into any part of this State, and for that purpose, to stop, detain and examine any person coming from any place infected with any such malignant or pestilential fever, and if there shall be good cause to suspect any person to be infected therewith, it shall be lawful for the several persons aforesaid, to cause every such person to be sent out of this State, not being an inhabitant thereof, or kept in such place as will not expose the inhabitants of the same to take such distemper; *and further* to appoint and authorize such and so many persons, to aid in the execution of their powers aforesaid, as they shall respectively deem proper —

Health physician in Albany and Hudson.

And be it further enacted That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment to appoint a physician in each of the cities of Albany and Hudson, to assist in carrying into effect, the provisions, contained in the two preceding sections of this act, and such physician who shall examine any vessel coming from a foreign port shall be entitled to receive from the commander thereof the sum of seven dollars and fifty cents —

CHAP. 87.

AN ACT to prevent and punish champerty and maintenance.

PASSED the 30th of March, 1801.

Restrictions on actions for share of recovery.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That no officer or other person, shall take upon him any business that is or may be in suit in any court, for to have part of the thing in plea or demand; and no person upon any such agreement, shall give up his right to another, and every such conveyance and agreement shall be void. And every person who shall maintain any plea or suit in any court, for lands, tenements, or other things for to have part or profit thereof, shall be punished by fine or imprisonment. But this act shall not prohibit any person to have counsel of persons duly licensed for that purpose, or to take counsel of his parents and next friends.

Officers not to take by gift or purchase any lands in plea in court.

And be it further enacted, That no officers, judicial or ministerial shall take or receive any lands or tenements in fee, by gift or by purchase, or to farm or by champerty, or otherwise, so long as the thing is in plea in any court, nor shall take any reward thereof; and he who doth the contrary either by himself or by any other, or makes any bargain concerning the same, shall be punished by fine, or imprisonment, as well he that purchaseth, as he that shall sell the same.

Conspiracy.

And be it further enacted, That all persons who confederate by oath, agreement, or other alliance, falsely and maliciously to indict or cause to be indicted any person, or falsely to move and maintain any plea or suit, shall be adjudged conspirators, and all persons who move pleas and suits, or cause them to be moved, either by their own procurement or

by others, and sue them at their own proper costs, for to have part of the land or thing in controversy or demand, or part of the gains, shall be adjudged champertors.

And be it further enacted, That whoever will complain of conspirators and maintainers of false quarrels, and the partakers thereof may prosecute by bill without writ, or may cause them to be attached, that they be before the justices of the supreme court to answer unto the plaintiff's by a writ out of the chancery, in form following: The people of the State of New York, to the Sheriff, Greeting: We command you, that if A. of G. shall make you secure of prosecuting his complaint, then put by gage and safe pledges C. of D. that he be before our justices of our supreme court of judicature at _____ on _____ to answer the aforesaid A. of a plea of conspiracy and trespass, as the same A. can reasonably shew that he ought to answer unto him thereof; and have you there the names of the pledges, and this writ."

Prosecution of conspirators.

And be it further enacted That no person by himself, or by any other, shall take upon him to maintain quarrels of others, to the let and disturbance of law, upon pain of being punished by fine or imprisonment, and to lose his office, if he be an officer.

Quarrels of others.

And be it further enacted, That every person, who shall maliciously be indicted for any treason, felony, or trespass, and who shall dwell in any other county, than where such indictment shall be taken, and be duly acquitted thereof by verdict, may after such acquittal, have his action upon the case, against every procurer of such indictment, and if such procurer be convicted, the plaintiff shall recover treble damages.

Malicious indictment of resident of another county.

And be it further enacted, That all gifts and conveyances made for maintenance, shall be void.

Void conveyances.

And be it further enacted, That no person shall buy or sell or by any ways or means procure any pretended right or title, or make or take any promise, grant or covenant, to have any right or title of any person, to any lands, tenements or hereditaments, unless such person who shall so bargain, sell, covenant or promise the same, or his ancestors, or those by whom he claims the same, have been in possession of the same, or of the reversion or remainder thereof, or taken the rents and profits thereof, for the space of one whole year, next before the said bargain, sale, covenant or promise made, upon pain that he who shall make any such bargain, sale, covenant, or promise, shall forfeit the whole value of such lands, tenements, or hereditaments; and the buyer or taker thereof knowing the same, shall also forfeit the value of the said lands, tenements or hereditaments: The one half of the said forfeitures to be to the use of the people of this State, and the other half to the party that will sue for the same, in any court of record by action of debt or by information. *Provided always,* that it shall be lawful for any person, being in lawful possession, by taking of the yearly rents or profits of any lands, tenements or hereditaments, to buy or obtain by any reasonable ways or means, the pretended right or title of any other person thereto.

Buying and selling pretended titles.

And be it further enacted, That no person shall hereafter unlawfully maintain, or cause or procure any unlawful maintenance in any matter or cause whatsoever in suit and variance, concerning any lands, tenements, or hereditaments, or any goods, chattels, debts, damages, or offences, in any court in this State, or before any person who shall have authority to hear or determine concerning the same; and no person shall unlawfully retain for maintenance of any suit or plea, any person, or embrace any freeholders, or jurors by rewards, promises, or other sinister labour, or means, to maintain any matter or cause, or to the

Unlawful maintenance of suits.

hindrance or disturbance of justice, or to the procurement or occasion of any false verdict, in any court within this State, upon pain to forfeit, for every such offence two hundred and fifty dollars; the one moiety thereof to the use of the people of this State, and the other moiety to him who will sue for the same, by action of debt, or by information in any court of record.

Imprisonment through malice.

And be it further enacted, That if any person shall by any ways or means, maliciously or for vexation and trouble, cause or procure any other person to be arrested or attached to answer in any court at the suit or in the name of any person, where there is no such person known, or without the consent or agreement of such person, in such case, every such person who shall so cause or procure any such arrest, or attachment shall for every such offence forfeit and pay to the party so arrested or attached treble the costs damages and expences, that the party so arrested and attached shall be put to by reason of such arrest or attachment; to be recovered by action of debt, or by information in any court of record with costs of suit: And shall also forfeit and pay unto the person in whose name and at whose suit such arrest, or attachment was had, if any such person be known fifty dollars, for every such offence to be recovered as aforesaid: And shall also upon conviction thereof be imprisoned for a time, not exceeding six calender months.

CHAP. 88.

AN ACT declaring it to be felony to steal bonds notes, and other securities for payment of money.

PASSED the 30th of March, 1801.

Evidence of debts, larceny, etc.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That if any person shall steal, or take by robbery, any bill of exchange, bond, order, warrant, bill or promissory note for payment of any money, or any certificate or other public security issued or to be issued by the authority of the United States, or by authority of the legislature of this State for payment of money, or acknowledging the receipt of money or goods, being the property of any other person or persons, or of any corporation, notwithstanding any of the said particulars are or may be termed in law a chose in action, it shall be deemed and construed to be felony, of the same nature, and in the same degree, and in the same manner, as it would have been, if the offender had stolen or taken by robbery any other goods of like value, with the money due on such bill, bond, order, warrant or note, or certificate, or other public security, or secured thereby and remaining unsatisfied; and such offender shall suffer such punishment as he or she ought to have done, if such offender had stolen or taken by robbery other goods of the like value as aforesaid.

CHAP. 89.

AN ACT to authorize Robert Merritt and John Merritt to build a bridge over the southwest arm of Sawpit creek in the town of Rye in the county of Westchester.

PASSED the 30th of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That Robert Merritt and John Merritt their heirs or assigns, be and they or either of them are hereby empowered and authorized at their own expence, to build a bridge from the public landing called Sawpit point, over the southwest arm of Sawpit creek to the land of the said Robert Merritt, between the storehouse belonging to Silvanus Seaman and the bake house belonging to Benjamin Rockwell and south of the said store house and not within two rods of the same agreeable to the dimensions and directions following, that is to say; the said bridge shall not be less than fifteen feet wide, with good and sufficient railings, on each side, and be so constructed, that it shall have a good and sufficient draw of not less than twenty feet wide, for the free passage of vessels with their masts standing.

Draw-bridge to be built over Sawpit creek.

And be it further enacted That if any person shall neglect or refuse to close the said draw within thirty minutes after they have passed through the same, they shall forfeit and pay for every such neglect or refusal two dollars to be recovered by the said Robert Merritt and John Merritt or their heirs or assigns in an action to be brought before any justice of the peace in said county with costs of suit.

Forfeiture for failure to close draw.

And be it further enacted That the said Robert Merritt and John Merritt their heirs and assigns be and they are hereby authorized to build the said bridge, on the express condition, that the said bridge when compleated shall be a public bridge and that they the said Robert Merritt and John Merritt or their heirs or assigns give to the public, land for a good and sufficient road from the said bridge to a place called Negro Point adjoining Byram river, and a sufficient quantity of land at said point for a public landing which shall be for no other use and to be laid out by the commissioners of highways where they shall judge it most convenient for the public —

Conditions on which bridge may be built.

CHAP. 90.

AN ACT for the amendment of the law, and the better advancement of justice.

PASSED the 30th of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for any defendant or tenant in any action in any court of record to plead the general issue and to give any special matter in evidence which if pleaded would be a bar to such action, giving notice with the said plea of the matter or several matters so intended to be given in evidence: *And further* that if two or more persons dealing together, be indebted to each other, and one of them or his or her executors or administrators, sue any one or more of the others, his or their executors or administrators in any court of this

Pleas of general issue; special matter to be given in evidence.

State, if the defendant cannot gainsay the deed or assumption upon which the suit is brought, it shall be lawful for such defendant to plead the general issue as aforesaid and give notice in writing with the said plea of what such defendant will insist upon at the trial for his or her discharge, and to give any bond, bill, receipt, account, or contract so given notice of in evidence; and if such suit be brought on a bond or other contract for the recovery of a penalty for the nonpayment of money only, and if any bond bill or contract with such penalty as aforesaid shall be given in evidence for the plaintiff or defendant upon such trial in all such cases the sum bona fide, and in equity due and not the penalty, shall be deemed to be the debt due, and if it shall appear that the debt or sum demanded is paid or satisfied the jury shall find for the defendant, and judgment shall be entered that the plaintiff take nothing by his writ, bill, or plaint, and unless the plaintiff prosecute as executor or administrator the defendant shall also recover his costs of suit; and if it shall appear that any part of the debt or sum demanded is paid or satisfied, then so much as is found to be paid or satisfied shall be discounted and the plaintiff shall have judgment for the residue only with costs of suit, but if it appears to the jury that the plaintiff is over paid, then they shall find a verdict for the defendant and certify to the court how much they find the plaintiff to be indebted or in arrear to the defendant more than will answer the debt or sum demanded; and the sum so certified shall be recorded with the verdict; and the defendant shall have judgment and execution for the same together with costs of suit unless the plaintiff prosecute as executor or administrator, in which case the sum so certified shall be deemed a debt of record to be paid in the course of administration and the defendant for recovery thereof shall have an action of debt or a scire facias against the plaintiff in the said action.

Reference
of causes
involving
long ac-
counts.

And be it further enacted, That whenever it shall appear probable, in any cause depending in any court of record in this State, as well where executors or administrators are parties as otherwise, that the trial of the same will require the examination of a long account on either side, the said court, at any time after issue is joined in such cause, is hereby authorized with or without the consent of parties to refer such cause by rule to be made at discretion, to referees who shall be three such persons as the court shall nominate unless upon naming them the parties agree upon and name others, or shall elect that three persons be balloted for, out of the panel of the jurors if there be a jury returned for the trial of the cause in the usual form of balloting for jurors; which referees finally fixed on shall hear and examine the matters in controversy, and report thereon upon pain of contempt; and an entry shall be made upon the record of such reference and day shall be given to the parties from time to time until the referees shall make a report in the premises, or they be thereof discharged; and if the report of the referees or the major part of them shall be confirmed by the said court, and any sum be thereby found for the plaintiff, judgment shall be entered for the same with costs, if by law the plaintiff would have recovered costs, had a verdict passed in the same cause for the sum so reported to be due; but if the referees or the major part of them shall report that there is not any thing due to the plaintiff and the report be confirmed then judgment shall be entered against the plaintiff, that he take nothing by his writ bill or plaint; and the defendant shall in such case have judgment for and recover his costs to be taxed against the plaintiff if by law such defendant would have been entitled to costs if a verdict passed in the same cause for him, and if in any case the referees or the major part of them shall report any sum to be due to the defend-

ant and the report be confirmed, then judgment shall be entered against the plaintiff that he take nothing by his writ, bill or plaint; *and further* the defendant shall recover against such plaintiff the sum so reported to be due with costs of suit to be taxed; and shall have execution for the same unless the plaintiff prosecute as the executor or administrator, in which case the sum so reported, with the costs so taxed, shall be deemed a debt of record, to be paid in the course of administration, and the defendant for the recovery thereof shall have an action of debt, or a scire facias against the plaintiff.

And be it further enacted, That where any such action or scire facias, had be brought for the recovery of any sum so found or reported to be due to any defendant the person against whom such action or scire facias shall be brought may plead that he had fully administered the goods of his testator or intestate at the time of the verdict given or report made and may give in evidence any payments made by him or judgment obtained against him before that time.— Scire facias for sums found due defendant.

And be it further enacted, That upon taxing the costs in all causes so referred where costs are to be recovered, a reasonable allowance shall be made to the prevailing party, for such services and expences as may accrue upon or attend the reference of the cause; and process of subpoena may issue to convene witnesses before the referees as is usual on the execution of writs of enquiry of damages, who shall be examined on oath and there shall be allowed to each referee attending the said business the sum of one dollar for every day necessarily spent in the business of the reference, besides a reasonable allowance for their expences, which shall be paid by the prevailing party, and shall be allowed upon taxing costs, where costs are recoverable, *and further* each referee before he proceeds to the business of the reference shall take an oath faithfully and fairly to hear and examine the cause, and make a true and just report according to the best of his skill and understanding; which oath as well as the oaths of the witnesses may be taken before any judge of any court of record, or any justice of the peace.— Taxation of costs.

And be it further enacted, That where any action of debt is brought upon any single bill, or where any action of debt or scire facias is brought upon any judgment, if the defendant hath paid the money due upon such bill or judgment, such payment may be pleaded in bar of such action; and where an action of debt is brought upon any bond which hath a condition or defeazance to make void the same upon payment of a less sum at a day or place certain, if the obligor his heirs executors or administrators have before the action brought paid to the obligee, his executors or administrators the principal and interest due by the condition or defeazance of such bond, though such payment was not made strictly according to the condition or defeazance it may nevertheless be pleaded in bar of such action, and shall be as effectual a bar thereof, as if the money had been paid at the day and place according to the condition or defeazance, and had been so pleaded.— Pleas of payment in action of debt or scire facias.

And be it further enacted, That if at any time pending an action upon any such such bond with a penalty the defendant shall bring into court all the principal money and interest due on such bond, and also all such costs as have been expended in any suit in law or equity, upon such bond the said money so brought in, shall be deemed and taken to be in full satisfaction and discharge of the said bond and the court shall give judgment to discharge every such defendant of and from the same. Payment of money into court.

And be it further enacted, That in all actions prosecuted in any court of record upon any bond, or for any penal sum for non performance of any covenants in any indenture, deed or writing, or upon any bond with Actions upon bonds or covenants.

any condition other than for the payment of money, the plaintiff shall assign as many breaches as he may think fit, and the jury upon trial of such action shall assess not only such damages and costs of suit as have heretofore been usually done in such cases, but also damages for such of the said breaches so assigned as the plaintiff upon the trial of the issues shall prove to have been broken; and the like judgment shall be entered on such verdict, as heretofore hath been usually done in such like actions; and if the judgment shall be given for the plaintiff on a demurrer, or by confession, or nihil dicit, the plaintiff may suggest upon the record as many breaches of the covenants, conditions or agreements as he shall think fit upon which shall issue a writ to the sheriff of the county where the action is laid to summon a jury to appear in the court where the action is brought if such court shall sit in the same county where the action is brought, or in case the court in which the action is brought shall, not sit in the county where the action is laid, then at the next circuit court to be held in the county where the action is laid to enquire of the truth of every one of those breaches, and to assess the damages that the plaintiff shall have sustained thereby; in which writ, if to be executed at the circuit court, it shall be commanded to the justice who shall hold such circuit court, that he make a return thereof to the court from whence the same writ shall issue, at the time in such writ mentioned, and in case the defendant after such judgment entered, and before any execution executed, shall pay into the court where the action is brought, to the use of the plaintiff or his executors or administrators such damages so to be assessed by reason of all or any of the breaches of such covenants, conditions or agreements, together with costs of suit, a stay of execution of the said judgment shall be entered upon record; or if by reason of any execution executed, the plaintiff or his executors or administrators shall be fully paid or satisfied all such damages so assessed together with his costs of suit and all reasonable charges and expences for executing the said execution, the body lands and goods of the defendant shall be thereupon forthwith discharged from the said execution, which shall likewise be entered upon record; but in each case such judgment shall remain as a further security to answer to the plaintiff and his executors or administrators such damages as shall be sustained for further breach of any covenant, condition or agreement in the same bond, indenture, deed, or writing contained, upon which the plaintiff, or his executors, or administrators may have a scire facias upon the said judgment against the defendant, or against his heirs devisees or ter-tenants, or executors, or administrators, suggesting other breaches of the said covenants, conditions or agreements, and to summon him or them respectively to shew cause why execution shall not be had upon the said judgment, upon which there shall be the like proceedings as were in the action of debt upon the said bond or obligation for assessing of damages upon trial of issues joined upon such breaches, or inquiry thereof, upon a writ to be awarded in manner aforesaid, and upon payment or satisfaction in manner as aforesaid of such future damages costs and charges all further proceedings on the said judgment, shall again be stayed and so toties quoties; and the defendant, his body, lands and goods, shall be discharged out of execution as aforesaid.—

Bail bonds
of persons
arrested by
civil pro-
cess.

VIII. *And be it further enacted*, That if any person be arrested by any process issuing out of any court of record, at the suit of any common person, and the sheriff or other officer shall take bail from such person against whom such process issued the sheriff or other officer, at the request and costs of the plaintiff or his lawful attorney, shall assign to the plaintiff the bond, or other security taken from such bail by in-

dorsing the same, and attesting it under his hand and seal in the presence of two or more credible witnesses, and if the said bail bond or assignment, or other security taken for bail, be forfeited, the plaintiff after such assignment made, may bring an action thereupon in his own name; and the court where the action is brought may by rule of the same court, give such relief to the plaintiff and defendant in the original action, and to the bail upon the said bond, or other security taken from such bail, as is agreeable to justice, and such rules of the said court, shall have the nature and effect of a defeazance of such bail bond or other security for bail.

And be it further enacted, That if in any action there be two or more plaintiffs or defendants and one or more of them shall die, the action shall not be thereby abated, if the cause of such action shall survive, but such death being suggested upon the record, the action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants.—

Death of one of two or more plaintiffs.

And be it further enacted, That it shall be lawful for any defendant or tenant in any action or for any plaintiff in replevin, in any court of record with the leave of the same court to plead as many several matters as he shall think necessary for his defence. *Provided nevertheless,* that if any such matter shall upon a demurrer joined, be judged insufficient, costs shall be thereupon given at the discretion of the court; or if a verdict shall be found upon any issue in the said cause for the plaintiff, or demandant, costs shall also be given in like manner, unless the judge who tried the said issue shall certify, that the said defendant, or tenant, or plaintiff in replevin had a probable cause to plead such matter, which upon the said issue shall be found against him.

Pleas by defendant in action in replevin.

XI. *And be it further enacted,* That if any material witness in any action in any court of record in this State, shall not reside in this State, it shall be lawful for the said court on affidavit or proof being made thereof to the satisfaction of the said court, and upon motion made by either party in open court, and upon such terms as the said court shall think proper, to award and issue under the seal of the same court, a commission to such persons as the same court may think fit authorising them, or any two or more of them, to examine such witness on oath, upon the interrogatories annexed to such commission, and to reduce such examinations into writing, and to return the same annexed to the said commission unto the said court with all convenient speed; and the name of every witness to be examined by virtue of any such commission shall be inserted in the same commission, and the interrogatories for the examination of every such witness shall be drawn and signed by the parties or their counsel in the cause in which the testimony is to be used, or such of them as shall request such commission and be approved of by the same court, or one of the judges thereof, and shall be annexed to such commission; and each party shall be at liberty, with the approbation of such court or judge, to insert in such interrogatories all such questions as he may deem proper. And the said commissioners or any two or more of them shall and may examine the witnesses named therein, or such of them as they can meet with on oath, and cause the examination of each witness to be reduced to writing and signed by the same witness, and such commissioners shall then also sign the same; and all such examinations and all exhibits produced to such commissioners and proved by any such witness, shall be annexed to the said commission and returned to the court, out of which such commission issued, closed up and under the seals of two or more of the said commissioners; and if it is not convenient for either of the said commissioners to carry the

Commissioners to take testimony of witnesses residing out of the State.

same to one of the judges of the said court then one of the said commissioners shall deliver the same to the agent of the party on whose behalf such witnesses shall be examined, and such agent, or in case of his death, the person into whose hands the same shall come, shall deliver the same to one of the judges of the said court, and make oath or affidavit before the same judge, that he received the same from the hands of one of the commissioners (or if such agent be dead then such affidavit shall set forth in what manner the same came into the hands of the person who shall so deliver the same) and that the same has not been opened or altered since he so received it; and such judge shall then open the same, and endorse upon the commission, as the case may be, either received by the hands of one of the commissioners or upon the oath of the person who delivers the same, as appears by his affidavit, and subscribe his name to the same endorsement, and shall then deposit the said commission and return, with the said affidavit, in the office of the clerk of the said court, there to remain as a record; and every such disposition, being so taken and returned shall be allowed and read, and shall be deemed as good and competent evidence in the cause in which it shall be taken as if such witness had been sworn and examined viva voce in open court on the trial of such cause; and all parties concerned shall be entitled to take copies of such depositions at their own costs and charges, as soon as the same shall be deposited in the clerk's office as aforesaid, and in case any such commission shall not be returned within such reasonable time, as the said court shall from time to time allow for that purpose, then the said court may proceed as if no such commission had been awarded.

Dismissal
of action
for want of
prosecution.

And be it further enacted, That where any issue is or shall be joined, whether the issue roll be filed or not, in any action in any court of record, and the plaintiff shall neglect to bring such issue to be tried according to the course and practice of such court it shall be lawful for such court, at any time after such neglect upon motion made in open court (due notice having been given thereof) to give the like judgment for the defendant as in cases of nonsuit, unless the same court shall upon just cause and reasonable terms allow a further time or times for the trial of such issue; and if the plaintiff shall neglect to try such issue within the time or times so allowed the said court shall give such judgment as aforesaid; and all judgments so given, shall be of the like force and effect as judgments upon nonsuits, and of no other force or effect; and the defendant upon such judgment shall have costs in any action where he would upon nonsuit, be entitled to the same and in no other action whatsoever.—

Liability of
joint
debtors.

And be it further enacted, That all persons jointly indebted to any other person upon any joint obligation contract or matter whatsoever for which remedy might be had at law against such debtors in case all were taken by process issued out of any court in this State, shall be answerable to their creditors separately for such debts; that is to say, the creditor or creditors of such debtors may issue process against them in the manner now in use, and in case any of such joint debtors be taken and brought into court he or they so taken and brought into court shall answer to the plaintiff, and in case judgment shall pass for the plaintiff he shall have his judgment and execution against such of them as were brought into court, and against the other joint debtors named in the process in the same manner as if they had all been taken and brought into court by virtue of such process; but it shall not be lawful to issue or execute any such execution against the body or against any lands or goods the sole property of any person not brought into court.

And be it further enacted, That where two or more persons are or shall be bound in one bond or recognizance, jointly and severally or severally only, it shall be lawful in every such case to join all the obligors in such bond or recognizance or any part of them in one action, and to prosecute the same to judgment and execution against the defendants in such action, and against their joint or separate property; and afterwards, if the whole amount due upon such bond or recognizance shall not be levied upon such first suit or judgment, to bring a further action against the residue of the said obligors, or any of them, jointly or severally, at the option of the plaintiff, and the same to prosecute to judgment and execution against the said residue of the said obligors, or any of them, and against their joint or separate property; but the plaintiff shall not cause to be levied in the whole more than the amount of the debt and damages due to him with the costs of suit; and if separate writs shall be issued against such obligors, or any of them, the plaintiff shall be at liberty in any stage of the suits to consolidate them into one suit; and shall in no case when two or more suits are depending at the same time, upon the same bond or recognizance, or on any promissory note, or bill of exchange, recover more than the costs of one of the said suits but where the defendants reside in different counties and writs are issued in several counties, the costs on each writ shall be taxed together, and in the same bill with the costs of such suit.

Actions on bonds where persons bound severally.

And be it further enacted, That when any interlocutory judgment shall be given in any court of law, by default, or upon demurrer, or confession in any action upon any bill of exchange, or promissory note for the payment of money, or upon any written contract for a sum certain though payable in specific articles, or upon a like contract for specific articles at a value or price stipulated in the same contract, or upon a covenant for the payment of money only, instead of awarding a writ of inquiry the court shall direct the clerk of such court, if a court of common pleas, and if the supreme court, then the clerk of the said supreme court, or the clerk of the court of common pleas of the county where the venue shall be laid, unless the venue shall be laid in the county where the supreme court shall sit, and in such case the clerk of the supreme court only, and it is hereby made the duty of such clerks respectively to perform the service, and to examine, ascertain and determine what sum the plaintiff ought to recover for damages; and either party may except to such report and upon such exception the court shall hear and examine the matter, and cause justice to be done to the parties and shall give judgment for the plaintiff for the sum so reported, or in case of exception to the report for the sum so ascertained by the court; and the judgment shall be entered on the record without entering thereon such reference to the clerk or any of the proceedings in consequence thereof, in the usual form of entering judgments by confession, where the amount of the damages is confessed, except that instead of the words "his damages aforesaid above confessed" the following words shall be inserted, that is to say "his (or her or, their) damages by occasion of the premises (to the sum for which the judgment is given) by the court here assessed," or words of like import.

Judgment by default, demurrer or confession for payment of money or on specific contract.

And be it further enacted, That when any plaintiff shall obtain judgment upon any bail bond, taken in any such action or in any action of debt upon judgment, or recognizance or upon any specialty or contract for the payment of money only, unless the defendant in the original action shall appear and obtain leave to plead therein, the said courts shall direct the clerks respectively as aforesaid; and it is hereby made the duty of such clerks respectively to perform the service and to

Judgment upon bonds.

examine, ascertain and report to the court the amount of the debt or sum of money due to the plaintiff in the original action, and either party may except to such report, and upon such exception the court shall hear and examine the matter, and cause justice to be done to the parties ; and the plaintiff shall cause the sum so reported or ascertained, with the amount of the costs in the original suit, and in the suit upon the bail bond, to be indorsed upon the execution to be issued upon the judgment obtained on such bail bond, and may cause the same and the poundage thereon and no more, to be levied by virtue thereof, and when any plaintiff shall obtain judgment upon any bail bond taken in any other action, unless the defendant in the original action shall appear and obtain leave to plead therein, the court shall direct common bail to be filed for the defendant in such original action, and order a judgment to be entered therein by default and award a writ of inquiry thereupon, and upon the return of such writ of inquiry the plaintiff may cause the damages found by the jury with the amount of the costs in the original suit, and in the suit upon the bail bond and the poundage thereon, and no more, to be levied on the judgment on such bail bond, and shall cause the same to be indorsed on the execution to be issued in the action on such bail bond.

Evidence
on which
clerk may
act.

And be it further enacted, That in those cases where the courts shall direct their clerks to examine, ascertain and determine what sum the plaintiff ought to recover for damages, it shall not be necessary at any time thereafter to prove the giving or executing any bill of exchange promissory note, covenant or contract, specially and truly set forth in the plaintiffs declaration, but the production thereof to the clerk shall be sufficient evidence of the giving or executing of the same, and the clerks shall indorse on such note, bill or contract that judgment hath been rendered thereon, and the amount of the damages ascertained therein, and shall respectively sign their names thereto.

Clerks may
swear wit-
nesses.

And be it further enacted, That in those cases where it shall be necessary to adduce evidence to the clerks, they shall be and hereby are authorised to swear any witness or witnesses offered, and shall if required by either of the parties, at the time of taking the same, reduce the testimony to writing, and shall report the same to the court on being required.

Deputy
clerks.

And be it further enacted, That it shall be the duty of the respective clerks of the several counties within this State to keep some proper person deputy clerk of the same county during the pleasure of said clerk, and as often as such deputy clerk shall die, or be removed from office, or remove out of the county, or become incapable of executing the office, another shall be appointed in his place by writing under the hand and seal of the clerk ; and every such deputation or appointment shall be recorded in the office of the clerk of the same county who shall in case of the death of the clerk thereof, perform all the duties and receive the emoluments appertaining to the office of clerk of the same county, and be subject to the same penalties that the clerks of the several counties within this State are liable to until a new clerk for the said county shall be appointed and duly sworn. —

Witness
fees.

XX. *And be it further enacted,* That each person served with process out of any court of record within this State to testify concerning any matter or cause depending in such court shall be entitled (in lieu of all expences, costs and charges of such witness, and in addition to the sum allowed by law) to receive for his reasonable expences from the party for whom he shall be so subpoenaed, upon being served with process, if a resident of the county in which the trial is to be had, fifty cents, and

if a non resident of such county seventy five cents, for each days traveling to, attending at and returning from such court, computing thirty miles to a days travel, and if any person being subpoenaed, upon being tendered with the amount of his reasonable expences to be ascertained as aforesaid, estimating one days attendance only, shall not thereupon appear according to the tenor of the said process, every person so making default, and not having a lawful and reasonable cause for the same shall forfeit to the party grieved fifty dollars, and shall also yield further recompence to the party grieved according to the loss and hindrance sustained to be recovered by action of debt, or by information, in any court with costs of suit. *And further* it shall be lawful to include in the taxation of costs the sum hereby required to be tendered together with a like allowance for any time more than one day, when the attendance of any witness or witnesses may exceed that term.

And be it further enacted, That every poor person not of ability to sue, and who shall have cause of action against any person, shall have by the discretion of the chancellor, writs original, or writs of subpoena without paying for the same; and if the suit is to be prosecuted in the court of chancery, the chancellor shall assign to such poor person solicitors and counsel, and all other officers requisite for prosecuting the suit, who shall do their duty therein without taking any reward for the same, and if such action is to be prosecuted in any other court the judges thereof shall by their discretion assign to such poor person attornies and counsel and all other officers requisite for prosecuting the suit, who shall do their duty therein, without taking any reward for the same, and in case any such plaintiff be nonsuited, or a verdict or judgment be given against him, he shall not be compelled to pay costs in such action.—

Actions by
poor persons.

And be it further enacted, That in all actions of trespass quare clausum fregit, wherein the defendant shall disclaim in his plea, or in his notice with the general issue, any title or claim to the land in which the trespass is by the declaration supposed to be done, and the trespass be by negligence, or involuntary, the defendant shall be admitted to plead or give notice with the general issue of a disclaimer, and that the trespass was by negligence or involuntary, and a tender of sufficient amends for such trespass before the action brought; whereupon or upon some of them if the defendant pleads specially the plaintiff shall join issue, and if any issue to be joined as aforesaid shall be found for the defendant, or the plaintiff shall be nonsuited, the plaintiff shall be barred from the said action and all other suits concerning the same.—

Actions of
trespass.

And be it further enacted, That no dilatory plea shall be received in any court of record, unless the party offering such plea do by affidavit prove the truth thereof, or shew some probable matter to the court to induce them to believe that the fact of such dilatory plea is true.

Dilatory
pleas.

And be it further enacted, That no essoin shall be allowed in any suit, and no person shall be permitted to wage his law in any case except that of non-summons in real actions.

Essoins
not allowed.

And be it further enacted, That all grants and conveyances made since the eighth day of March one thousand seven hundred and seventy three, or hereafter to be made, by fine or otherwise, of any lands, or tenements, or rents issuing therefrom, or of the reversion or remainder of any lands or tenements shall be valid without any attornment of the tenants of any such lands or tenements: *Provided however* that no such tenant shall be prejudiced by payment of any rent to any such grantor, or cognizor, or by breach of any condition for non payment of rent, before notice given to him of such grant or conveyance.—

Conveyances made
since date specified.

And be it further enacted That all warranties made since the eighth

Certain

warranties to be void.

day of March one thousand seven hundred and seventy three, or hereafter to be made, by any tenant for life, of any lands, tenements, or hereditaments, the same descending or coming to any person in reversion or remainder, shall be void; and all collateral warranties which have been made since the day and year aforesaid, or hereafter to be made, of any lands, tenements or hereditaments by any ancestor who had no estate of inheritance in possession in the same at the time of making such warranty shall be void against his heirs.—

Foreman of grand jury may administer oaths.

And be it further enacted, That every foreman of a grand jury shall be from the time of his being appointed until his discharge, authorised to administer the usual oath or affirmation to such witnesses as shall come to give evidence to the grand jury whereof he is foreman.

Attaints; English statutes.

And be it further enacted, That attaints upon untrue verdicts shall be abolished, and further that none of the statutes of England or Great Britain shall be considered as laws of this State.

CHAP. 91.

AN ACT relative to gaols.

PASSED the 30th of March, 1801.

Jail in New York city.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the building now established and used as the gaol of the of city New York, for the confinement of persons on civil process, shall be and continue the gaol of the said city for the confinement of such persons; and that the part of the bridewell in the said city now established and used as the gaol of the said city for the confinement and safe keeping of all persons charged with or convicted of any crime or misdemeanor, except persons sentenced to imprisonment in the State prison, shall be and continue the gaol of the said city, for the confinement and safe keeping of such persons; and the gaol last aforesaid, shall be under the charge of the mayor, aldermen and commonalty of the said city; and the said mayor, aldermen, and commonalty in common council convened, shall from time to time appoint some proper person to be keeper of the same, who shall hold his office during the pleasure of the said common council, and shall be called "the keeper of the city prison of the city of New York," and all commitments of offenders shall be, "to the keeper of the city prison of the city of New York," and the said keeper shall keep all persons committed to him as aforesaid, in the same manner, and under the same penalties, as the sheriffs of the other counties in this State ought by law to keep in the gaols of the respective counties, the criminals committed to them.

Jails in other counties.

And be it further enacted, That the buildings now established and used as the gaols of the counties of Suffolk, Queens, Kings, Richmond, Westchester, Rockland, Orange, Dutchess, Ulster, Columbia, Rensselaer, Washington, Saratoga, Montgomery, Schoharie, Delaware, Otsego, Herkimer, Tioga, Cayuga, Ontario, Steuben, and of the city and county of Albany, shall be and continue the gaols of the said city and counties respectively.

Confinement of prisoners in counties having no jail.

And be it further enacted, That it shall be lawful for all courts and officers of the county of Green, in all cases civil and criminal, to confine their prisoners in the gaol of the county of Columbia, until a gaol shall be erected in the said county of Green; and for all courts and officers of the counties of Oneida, Chenango, and Onondaga, in all

cases civil and criminal to confine their prisoners in the gaol of the county of Herkimer, until a gaol be erected in those counties respectively: *Provided nevertheless*, that as soon as the sheriff of the county of Oneida, shall deem the gaol directed to be built in that county sufficiently finished for the safe keeping of prisoners, the same shall from thence be the gaol of the said county of Oneida, and the sheriff shall remove his prisoners to the said gaol, and such removal shall in no manner be construed an escape.

And be it further enacted, That the blockhouse at Willsborough, in the county of Essex, and at Plattsburgh in the county of Clinton, shall when compleated, be the gaols of those counties respectively, and until other sufficient provision can be made in the premises, it shall be lawful for the sheriffs of those counties respectively at their discretion to confine any of their prisoners in the gaol of the county of Washington. Essex and Clinton counties.

And be it further enacted, That the liberties of the gaols of the said counties respectively, as the same have already been established according to law by the courts of common pleas of the said counties respectively, shall be the liberties thereof as well in counties where gaols are not erected as others subject to be altered by the judges of the said courts of common pleas of the respective counties in their discretion not oftener than once in every year. And where the same have not already been so done in any county, it shall be lawful for the court of common pleas of such county, to appoint a certain reasonable space of ground, adjacent the gaol of such county, to be denominated the liberties thereof subject to be altered as aforesaid, and such court shall cause the same liberties and their limits to be designated by inclosures or posts, or other visible marks placed on the outer lines of the said liberties, as to them shall seem proper, and the extent of such liberties to be entered on their minutes which extent shall in no instance comprehend a larger space than three acres, nor extend in any direction to a greater distance than sixty rods. *Provided* there be ten dwelling houses within such extent. Liberties of the jail.

And be it further enacted, That it shall be the duty of the sheriffs of the respective counties to permit any prisoner who shall be in their custody on civil process only, to go at large within the limits of the respective liberties as aforesaid appointed; *provided* such prisoner shall procure and offer to the sheriff in whose custody he shall be, a bond with one or more sufficient sureties, in the penalty of double the amount of the sum, for which such prisoner is confined; conditioned, that such prisoner shall remain a true and faithful prisoner, and shall not at any time, nor in any wise escape or go without the limits of the liberties aforesaid, until discharged by due course of law. *And provided further*, that it shall be lawful for any such sheriff, in case he shall discover to his satisfaction any bail so taken to be insufficient, to confine any prisoner so admitted to the benefit of the liberties in the gaol until other good and sufficient bail for the liberties be offered; and every such surety shall be an inhabitant and freeholder within the county where such prisoner shall be confined; and every bond so taken is hereby declared to be valid in law, and to be for the indemnity of such sheriff only; and that any sheriff who may let any prisoner in his custody upon civil process only, go at large within the limits of the liberties aforesaid, shall not be deemed to have incurred an escape: *Provided always*, that nothing in this act contained shall be construed to exonerate the said sheriffs in case any such prisoner shall escape and go at large without the said limits. When prisoner allowed liberty of the jail.

And be it further enacted, That no spirituous liquors shall upon any Liquors

not allowed in certain jails.

Jail physicians may allow liquors.

Duty of sheriffs respecting liquors in jails.

pretence whatsoever, be sold within either of the gaols of the city and county of New York, or within the gaol of the city and county of Albany, nor shall any kind of spirituous liquors, except beer of the quality commonly called table beer, and cyder, be brought into either of the said gaols for the use of any person therein confined, without the permit herein after mentioned.

And be it further enacted, That it shall be lawful for the mayor of each of the said cities, occasionally to appoint one or more physicians in each of the said cities, who are hereby authorized in cases where they may deem the same necessary or useful to grant permits in writing under their hands, to any person confined in the said gaols, to procure and bring into the same, such quantity of spirituous liquors as they may think proper.

And be it further enacted, That it shall be the duty of the sheriffs of the said cities, and keepers of the city prison of the said city of New York, having the custody of the said gaols respectively, to prevent the use of spirituous liquors therein contrary to this act; and if the sheriff of either of the said cities, or the keeper of the city prison of the said city of New York, shall knowingly suffer or permit any spirituous liquors to be sold or used in their respective gaols contrary to this act, and be thereof convicted before the supreme court, or court of oyer and terminer, he shall for such offence, forfeit two hundred and fifty dollars for the use of the people of this State.

CHAP. 92.

AN ACT to establish a turnpike corporation for opening and improving a certain road therein described within the counties of Oneida and Chenango.

PASSED the 30th of March, 1801.

Chenango Turnpike Company incorporated.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That Joseph Kirkland, David Norton, Joseph Dixon, James Glover, Jedediah Sanger, Amos Muzzy, Anson Carey, Peter B. Garnsey, Uri Tracy, Isaac Foote and Philip S. Parker, and all such persons as shall associate for the purpose of making a good and sufficient road from the dwelling house of Benjamin Wilsons in the town of Oxford in the county of Chenango, the nearest and most direct rout as far as circumstances will admit of, through the towns of Norwich, Sherburn, Hamilton, Sangerfield and Paris, to intersect the Genesee turnpike road at or near the house of Jedediah Sanger esquire in Whitestown, shall be and hereby are created and made a corporation and body politic in fact and in name, by the name of the President, Directors and Company of the Chenango Turnpike Road, and by that name they shall be capable in law to purchase, have, hold, enjoy, and retain to them and their respective successors, lands, tenements, hereditaments, goods, chattels and effects of every kind whatsoever, and the same or any part thereof to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record or any other place whatsoever; *provided however* that the amount of the real estate which the said corporation are hereby authorised to purchase and hold shall not exceed three thousand five hundred dollars; *and provided further,* that such estate so to be purchased and held shall be necessary to fulfil the end and intent of

the corporation hereby created and made, and to no other use, intent or purpose whatsoever.

And be it further enacted, That Benjamin Houey, Isaac Foote, Oliver Norton, Elisha Payne and Josiah Stevens be and they are hereby appointed commissioners to do and perform the duties herein after mentioned, that is to say, they shall on or before the first Tuesday in June next procure five books, and in each of them enter as follows: "We whose names are hereunto subscribed, do for ourselves and our legal representatives promise to pay the president directors and company of the Chenango Turnpike Road the sum of twenty dollars for every share of stock set opposite to our respective names, in such manner and proportion, and at such time and place as shall be determined by the said president, directors and company,—*provided* that no greater proportion of the said sum than one third part shall be demanded in any one year;" one of which books shall be left with each of the said commissioners, at their respective places of abode, who shall keep the same open for the purpose of receiving subscriptions, and every subscriber shall at the time of subscribing pay unto either of the said commissioners the sum of two dollars for each share so subscribed, as part of the said subscription; and the said commissioners shall as soon as three hundred shares have been subscribed cause an advertisement to be inserted in one of the public newspapers within the county of Oneida, giving at least sixteen days notice of the time and place the said subscribers shall meet for the purpose of choosing twelve directors who shall be stockholders, for the purpose of managing the concerns of said company for one year, and the day of choosing the said directors shall forever after be the anniversary day for choosing directors; and any seven of the said directors shall be a quorum and capable of transacting the business of said corporation, and the said directors elected by a plurality of the votes of the stockholders present, shall immediately proceed to the choice of one of their number for president: And that at every such election for directors as aforesaid, each stockholder shall be entitled to one vote for every share he may hold to the number of ten, and for every five shares over and above said number one vote and no more.

Commissioners to take subscription to stock.

Election of directors.

And be it further enacted, That the said president and directors may continue to receive subscriptions to the stock of said corporation, until there shall be three thousand dollars subscribed.

Limit of subscriptions.

And be it further enacted, That the said corporation hereby created, shall except as is herein otherwise provided have the like powers and privileges as by the act entitled, "An act to establish a turnpike corporation for improving the road from the city of Hudson to the line of Massachusetts on the road to Hartford," passed March the twenty ninth one thousand seven hundred and ninety nine, and the act amending the same passed the twenty eighth of March one thousand eight hundred, are conferred on the corporation herein mentioned, and shall be subject to the like restrictions and regulations as the said last mentioned corporation is made subject to; and shall make and improve the line of road directed by this act in like manner as is enjoined on the same corporation by the said recited act, and also shall be entitled to have and receive the like rates of toll as are allowed to the corporation for improving the road from the house of John Weaver in Watervliet to Cherry Valley aforesaid.

Powers and privileges of corporation.

CHAP. 93.

AN ACT to incorporate the stockholders of the Farmers Bank.

PASSED the 31st of March, 1801.

Preamble.

WHEREAS Elijah Janes, Charles Seldon and others associated as a company under the stile of the Farmers Bank by their petition presented to the legislature have prayed for the privilege of being incorporated the better to enable them to carry on the purposes of their institution, therefore

Farmers' Bank incorporated.

I. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That all such persons as now are or hereafter shall be stockholders of the said bank shall be, and hereby are ordained, constituted and declared to be from time to time and until the first Tuesday of March which will be in the year of our Lord one thousand eight hundred and eleven a body corporate and politic in fact and in name by the name of the president, directors and company of the Farmers Bank and that by that name they and their successors until the said first Tuesday of March one thousand eight hundred and eleven shall and may have continual succession, and shall be persons in law capable of suing and being sued, pleaded and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever, and in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may have a common seal and may change and alter the same at their pleasure; and also that they and their successors by the same name of the President, Directors & Company of the Farmers Bank, shall be in law capable of purchasing holding and conveying any estate real or personal, for the use of the said corporation —

Capital stock.

II. *And be it further enacted,* That a share in the said bank shall be fifty dollars and the number of shares shall not exceed five thousand exclusive of any shares that may be subscribed on the part of this State, and subscriptions shall be kept open under the direction of the president and directors of the said bank until the said number of shares shall be subscribed and at such times and places as they shall think proper, and the whole amount or the stock, estate and property which the said corporation shall be authorised to hold including the capital stock above mentioned shall never exceed in value three hundred thousand dollars.

Directors; elections; first board.

III. *And be it further enacted,* That the stock property affairs and concerns of the said corporation shall be managed and conducted by thirteen directors, one of whom to be president, who shall hold their office for one year, which directors shall be stockholders, citizens of this State and residing two of them in the village of Waterford, five of them in the village of Lansingburgh and six of them in the village of Troy, and shall be elected on the first Monday in February in every year, at such place in the town of Troy as a majority of the directors (who shall upon all occasions constitute a board for doing business) for the time being shall appoint, and a public notice shall be given by the said directors in one of the news-papers printed in the village of Lansingburgh or Troy of such time and place not more than sixty nor less than thirty days previous to the day of holding said election. And the said election shall be held and made by such of the stockholders of the said bank as shall attend for that purpose either in person or by

proxy, which proxies shall always be stockholders; and all elections shall be by ballot, and the thirteen persons who shall have the greatest number of votes and residing in the villages as aforesaid shall be directors; and if it should happen at any election that two or more persons have an equal number of votes, then the said directors in office at the time of such election or a major part of them shall proceed to ballot and by plurality of votes determine which of the said persons so having an equal number of votes shall be the director or directors, so as to complete the whole number of thirteen; and the said directors chosen at such election as soon as may be thereafter shall proceed in like manner to elect by ballot one of their number to be their president; and if any director shall remove out of this State his office shall be considered as vacant and whenever any vacancy or vacancies shall happen among the directors by death resignation or removal, such vacancy or vacancies shall be filled for the remainder of the year in which they shall happen, by such person or persons as the remainder of the directors for the time being or a majority of them shall appoint, and the first directors shall be Samuel Stewart, Guert Van Schoonhoven, John D. Dickenson, James Hickock, Charles Seldon, William Bradley, Elijah Janes, Benjamin Tibbitts, Ephraim Morgan, John Woodworth, Daniel Merrit, Townsend McCoon and Christopher Hutton, and shall hold their offices respectively until the first day of February which will be in the year one thousand eight hundred and two.

IV. *And be it further enacted*, That in case it should at any time happen that an election of directors should not be made on any day when pursuant to this act, it ought to have been done, the said corporation shall not for that cause, be deemed to be dissolved; but that it shall and may be lawful on any other day to hold and make an election of directors in such manner as shall have been regulated by the laws and ordinances of the said corporation.

Failure to elect not to forfeit charter.

V. *And be it further enacted*, That the directors for the time being or a major part of them shall have power to make and prescribe such bye laws, rules and regulations as to them shall appear needful and proper, touching the management and disposition of the stock, property, estate and effects of the said corporation, the duties and conduct of the officers, clerks and servants employed therein, the election of directors, and all such other matters as appertain to the business of a bank, and shall also have power to appoint so many officers clerks and servants for carrying on the said business and with such salaries and allowances, as to them shall seem meet; *provided*, that such bye-laws, rules and regulations be not repugnant to the constitution and laws of the United States or of this State.

Regulations concerning management of affairs.

VI. *And be it further enacted*, That the said bank shall be established and kept, and the buildings necessary for the accommodation thereof erected, and the business thereof at all times hereafter transacted at such place in the town of Troy as Hosea Moffat, Jonathan Brown, John E. Van Alen and James McKown, or any three of them shall designate and point out, which location when so made shall be unalterable; and said place shall be near the road leading from Troy to Lansingburgh and not further north than the mill creek, nor further south than the house of Joshua Raymond. And the said buildings necessary for the accommodation of said bank shall be erected and so far completed as to admit the transaction of the business of said bank by the first day of December next after the passing of this act.

Where bank to be kept.

VII. *And be it further enacted*, That this State shall have a right to subscribe any number of shares to the said bank, not exceeding in the

Subscription by State.

whole the number of two hundred, at any time when they shall by law authorise any person or persons for that purpose; and the State shall have a right to increase the number of shares and stock, which the said corporation may hold, to the amount of the sum to be subscribed, if the number of shares herein before limited shall be subscribed before such subscription shall take place on the part of the State.

Limitation
of debts of
bank.

VIII. *And be it further enacted*, That the total amount of debts which the said corporation shall at any time owe whether by bond, bill, note or other contract, over and above the specie then actually deposited in the bank shall not exceed three times the sum of the capital stock subscribed and actually paid into the said bank, and in case of such excess, the directors under whose administration it shall happen, shall be liable for the same in their separate and private capacities, but this shall not be construed to exempt the said corporation or any estate real or personal which they may hold as a body corporate from being also liable for and chargeable with such excess. But such of the directors who have been absent when the said excess was contracted or who may have dissented from the resolution or act whereby the same was so contracted shall not be so liable.

Real es-
tate, right
to hold.

IX. *And be it further enacted*, That the lands, tenements and hereditaments, which it shall be lawful for the said corporation to hold shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business or such as shall have been bona fide mortgaged to it by way of security or conveyed to it in satisfaction of debts previously contracted in the course of its dealings or purchased, at sales upon judgments which shall have been obtained for such debts; *and further* the said corporation shall not, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandizes or commodities whatsoever, or in buying or selling any stock created under any act of the United States, or any particular State, unless in selling the same, when truly pledged by way of security for debts due to the said corporation.—

Bills of
credit and
notes.

And be it further enacted, That the bills obligatory and of credit under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by indorsement thereupon, under the hand or hands of such person or persons his, her or their assignee or assignees and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees respectively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her or their own name or names; and bills or notes which may be issued by order of the said corporation promising the payment to any person or persons his, her or their order, or to bearer, though not under the seal of the said corporation, shall be binding and obligatory upon the same in like manner, and with like force and effect as upon any private person or persons if issued by him, her or them in his her or their private or natural capacity or capacities, and shall be assignable and negotiable in like manner as if they were so issued by such private person or persons.

Calls on
stock-
holders.

And be it further enacted, That it shall be lawful for the directors for the time being to call and demand from the stockholders respectively all such sums of money by them subscribed or to be subscribed, at such times and in such proportions as they shall see fit under pain of forfeiture of their shares and of all previous payments thereon to the said company, always however giving sixty days previous notice of such call and demand in one of the news-papers to be published as aforesaid.

Non-user
not to

And be it further enacted, That this present act of incorporation shall in no wise be forfeited by any non user whatsoever at any time before

the first day of September next, and that it shall on that day be lawful for the stockholders above mentioned to assemble for the purpose of carrying the same into effect any want of notice in the manner above prescribed to the contrary in any wise notwithstanding.—

forfeited
charter.

And be it further enacted, That each stockholder at elections and on all other questions shall be entitled to the number of votes proportioned to the number of shares which he or she shall have held in his or her own name for at least three months preceding such time, according to the following ratio, that is to say: One vote for every share not exceeding eight, ten votes for twenty shares, twenty votes for thirty shares, and one vote for every ten shares above thirty; but no person, copartnership or body politic, shall be entitled to more than fifty votes; and no stockholder unless actually resident within the United States, shall vote at elections, or on any other occasions by proxy.—

Voting at
elections.

And be it further enacted, That it shall be the duty of the directors to make half yearly dividends of so much of the profits of the said bank, as to them or a majority of them shall seem advisable. And that every cashier and clerk before he enter upon the duties of his office shall give bond with two or more sureties to be approved of by the directors for the time being or a majority of them in a sum not less than ten thousand dollars for such cashier, and two thousand dollars for each clerk conditioned for the faithful discharge of their several duties.

Dividends;
bonds of
employees.

And be it further enacted, That the said corporation shall not demand any greater interest on any loan or discount than at the rate of six per centum per annum.—

Rate of
interest.

And be it further enacted, That this act be and is hereby declared to be a public act, and that the same be for the time herein before limited, construed in all courts and places benignly and favorably for every beneficial purpose therein mentioned.

How act
construed.

CHAP. 94.

AN ACT to establish a turnpike corporation for opening and improving a certain road therein designated within the counties of Oneida and Chenango.—

PASSED the 31st of March, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That John Lincklaen, Jonathan Forman, Peter Smith, Samuel Sidney Breese, James Livingston junior, Elijah Risley, James Green, Charles Hill, David Cook, Jedediah Jackson, Joseph Black, Jedediah T. Turner, James Moore, Jonathan Dean, Daniel Petrie, Peter Marsh, Oliver Phelps, Arnold Ballow and Samuel Laird, and all such persons as shall associate for the purpose of making a good and sufficient road, from the dwelling house of Jonathan Dean in the town of Augusta county of Oneida, the nearest and most direct route, as far as circumstances will admit of through the Oneida and Stockbridge reservations, by the north side of the dwelling house of James Livingston junior in New Petersburg and within five perches of the same to the dwelling house of John Lincklaen in the village of Cazenovia, county of Chenango, shall be and hereby are created, and made a corporation and body politick, in fact and in name, by the name of "The President Directors and Company of the Oneida Turnpike Road" and that by that name they shall be capable in law to purchase, have, hold, enjoy, and

Oneida
Turnpike
Road Com-
pany incor-
porated.

retain to them and their respective successors, lands, tenements, hereditaments, goods, chattels and effects, of every kind whatsoever, and the same or any part thereof to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of record, or any other place whatsoever; *provided however* that the amount of the real estate which the said corporation are hereby authorized to purchase and hold shall not exceed two thousand dollars; *and provided further* that such estate so to be purchased and held shall be necessary to fulfil the end and intent of the corporation hereby created and made, and to no other use intent, or purpose whatsoever.—

Subscriptions to stock.

And be it further enacted, That Abraham Van Eps, Samuel S. Forman and William Sayles be and they are hereby appointed commissioners to do and perform the duties herein after mentioned, that is to say, they shall on or before the first Tuesday in April next procure three books, and in each of them enter as follows “We whose names are hereunto subscribed, do for ourselves and our legal representatives, promise to pay the president directors and company of the Oneida Turnpike Road, the sum of twenty dollars for every share of stock set opposite to our respective names, in such manner and proportion, and at such time and place as shall be determined by the said president, directors and company, *Provided* that no greater proportion of the said sum, than one third part shall be demanded in any one year, one of which books shall be left with each of the said commissioners, at their respective places of abode, who shall keep the same open for the purpose of receiving subscriptions, and every subscriber shall at the time of subscribing pay unto either of the said commissioners, the sum of two dollars for each share so subscribed, as part of the said subscription, and the said commissioners shall as soon as three hundred shares have been subscribed, cause an advertisement to be inserted in one of the public news papers printed within the county of Oneida, giving at least sixteen days notice of the time and place the said subscribers shall meet for the purpose of choosing nine directors who shall be stockholders, for the purpose of managing the concerns of said company for one year, and the day of choosing the said directors shall for ever after be the anniversary day for choosing directors, and any five of the said directors shall be a quorum, and capable of transacting the business of said corporation, and the said directors elected by a plurality of the votes of the stockholders present, shall immediately proceed to the choice of one of their number for president, and the said president and directors may meet from time to time, at such time and place as they may find expedient, and shall have power to make such bye laws, rules, orders and regulations, not inconsistent with the constitution or laws of this State, or of the United States as shall be necessary for the well ordering the affairs of the said corporation, and that at every such election for directors as aforesaid, each stockholder shall be entitled to one vote for every share of stock he may hold to the number of ten and for every five shares over and above said number, one vote and no more.

Limit to subscriptions.

And be it further enacted, That the said president and directors, may continue to receive subscriptions to the stock of said corporation, until there shall be one thousand five hundred shares subscribed and shall have power to appoint such agents, clerks, workmen and others under them, as shall be necessary for executing the business of the said corporation.—

Right to take lands.

And be it further enacted, That the said corporation by the president and directors or by any agent, superintendant, artist or other person

employed in their service, may enter into any land where they shall deem it proper to construct the said road, and to lay out and survey such routs or tracts as shall be most practicable, for effecting a good and sufficient road between the places aforesaid; and the said president and directors may contract with the owners of the said land, for the purchase of so much thereof as shall be necessary for the purpose of making the said road, and for erecting and establishing gates, toll-houses and all other works to the said road belonging, and with their carriages, beasts, tools and implements to enter in and upon any land contiguous to the said road, and to carry away any timber, stone, gravel, sand or other earth being more conveniently situated for making or repairing said road, and to use the same for carrying on said work, the said president and directors paying the owner or owners of the said land, so to be laid out as part of the road, such reasonable compensation for the same, or for materials as aforesaid, or other damages which such owner or owners may sustain, in consequence thereof, as may be agreed on, and in case of disagreement between the parties as to the amount of the damages, the same shall be determined by an appraisement to be made on oath of three, or if they disagree of two disinterested freeholders to be mutually chosen, or if the owners of said land or materials refuse or neglect to join in the choice; to be appointed by any justice of the peace of the county in which the lands or materials shall be, *provided* the said justice shall not be interested in the dispute. —

And be it further enacted, That the said president directors and company, shall cause the said road to be laid out four perches wide and to be cleared of all timber, except trees for ornament, in the centre of which an arch to be formed twenty six feet wide, between the ditches, where ditches shall be necessary, twenty feet of which shall be bedded with sound wood, stone gravel or other hard substance, compacted together sufficiently to secure a solid foundation to the same, the said arch to be faced with gravel or other hard substance, in such manner as to secure as near as the materials will admit an even surface rising gradually towards the centre, so that the centre when completed may be at least eighteen inches higher than the sides and shall over all streams, cause good and sufficient bridges to be built at least eighteen feet wide, and shall during the continuance of this act; maintain and keep the said road and bridges in good order and repair. —

And be it further enacted, That as soon as the said president directors and company shall have compleated of the said road ten miles, commencing at the house of Jonathan Dean aforesaid, then it shall be lawful for them to give notice thereof to the governor of this State for the time being, who shall thereupon nominate and appoint two judicious persons to view the same, and report to him in writing whether the said road is so far executed and compleated according to the true intent and meaning of this act, and if the report is in the affirmative, then it shall be lawful for the governor, and it is hereby made his duty, by license under his hand, and the privy seal of this State, to permit the said president directors and company to erect one gate and turnpike across the said road, and when the whole road, shall be compleated according to the true intent and meaning of this act, and after obtaining license from the governor in manner aforesaid, it shall be lawful for the said president directors and company to erect two other gates and turnpikes across the said road, at such places as they may deem proper, *provided nevertheless*, that there shall not be more than three gates in the whole distance of the said road, nor the gates less than ten miles distant from each other. —

And be it further enacted, That as soon as the whole or any part of

Width of roadway.

Examination of road by direction of governor.

Rate of toll.

the said road shall be completed, and permission to erect a gate or gates as aforesaid be granted, then the said president and directors may appoint toll-gatherers to collect and receive of and from all and every person or persons using the said road, the following sums of money, at each and every of the said gates, vizt. For every score of sheep or hogs twenty five cents for every score of cattle, horses or mules thirty seven and an half cents, and so in proportion for any greater or less number of sheep, hogs, cattle, horses or mules; for every horse and rider, or led horse six cents, for every sulkey, chair or chaise with one horse twenty five cents, for every cart drawn by one horse seven cents, for every chariot, coach, coachee or phaeton, thirty seven and an half cents, for every stage waggon or other four wheeled carriage drawn by two horses, mules or oxen fifteen cents and two cents for every additional horse, mule or ox, for every cart drawn by two oxen fifteen cents, and for every additional horse, mule or ox two cents, for every sleigh or sled drawn by one horse or mule six cents, for every sleigh or sled drawn by two horses mules or oxen, nine cents and two cents for every additional horse, mule or ox, and it shall be lawful for any of the toll gatherers to stop any person, riding, leading or driving any horse, cattle, sheep or hogs, sulkey chair phaeton, waggon, sleigh or other carriage of burthen or pleasure, from passing through any of the said gates or turnpikes, until they shall have respectively paid the toll as above specified — *Provided however*, that the president and directors, may from time to time make agreements with persons living contiguous to said road for the use of the same, by paying the said president, directors and company such compensation by the month, as shall be agreed on, but that no such agreement shall be for more than one year from the date thereof, and every such agreement shall be in writing. *And provided further* that the said president and directors shall not demand toll from any person or persons, for passing and repassing the said gates and turnpikes going to or returning from meeting, mill or their ordinary business.

Mile-stones
and guide-
posts.

And be it further enacted, That the said corporation shall cause mile stones or posts to be erected or placed, one for each and every mile of the said road, and on each stone or post placed as aforesaid, shall be legibly marked the distance the same is from the village of Cazenovia, and shall also erect guide posts at the intersection of all roads leading into and from the said turnpike, to which post boards shall be attached, on which shall be inscribed the name of the town in which the same stands, and the name of the town or towns to which the road leads in the direction to which the hand board points, and the said corporation shall also cause to be affixed to each gate or turnpike, a printed or painted list of the rates of toll which may be lawfully demanded.—

Destruction of
stones,
posts and
gates.

And be it further enacted, That if any person or persons, shall break or throw down, or deface any of the mile stones or posts, guide posts or boards so erected for the information of the good people of this State, or shall cut, break down, or destroy, any of the gates or turnpikes, which shall be erected in pursuance of this act, or shall forcibly pass the same without having paid the legal toll at such gate or turnpike, such person or persons shall pay a fine not exceeding ten dollars nor less than two dollars, to be recovered by the treasurer of the corporation, to their use in an action of trespass, and if any person shall with his team, carriage, or horse, turn out of said road to pass the said gates, on ground adjacent thereto, and again enter on said road with intent to avoid the toll due by virtue of this act, such person shall forfeit and pay three times as much as the legal toll would have been for

any such person in passing through said gate, to be recovered by the treasurer of the said corporation or by the toll gatherer at such gate or turnpike, for the use of the said corporation, in an action of debt.

And be it further enacted, That if any toll gatherer shall unreasonably hinder or delay, any traveller or passenger at any of the said gates or shall demand or receive more toll than is by this act established, he shall for every such offence forfeit and pay the sum of two dollars, to be prosecuted for and recovered before any justice of the peace in the county where such offence shall be committed, for the sole use of the person so unreasonably detained or attempted to be defrauded.—

Unreasonable delay at gates.

And be it further enacted, That the shares in the said corporation, shall be taken, deemed and considered to be personal estate, and shall and may be transferable, and the transfers of the said shares shall be made and entered on the books of the said president, directors and company.

Stock deemed personal estate.

And be it further enacted, That the president and directors of the said corporation, shall keep a just and fair account of all monies received by the several collectors of toll on said road, and shall make and declare a dividend of the clear profits and income (all contingent costs and charges being first deducted) amongst all the stockholders of the said corporation, and shall on the second Tuesday in January and July in every year, publish the half yearly dividend to be made of the said clear profits among the stockholders, and of the times and places, when and where the same will be paid, and shall cause the same to be paid accordingly.

Dividends.

And be it further enacted, That the said president and directors shall within six months after the said road is completed, lodge in the comptrollers office of this State, an account of the expence thereof, and the corporation shall annually exhibit to the comptroller a true account of all the income arising from said toll, with the annual disbursements on said road.—

Account to be filed with comptrol

And be it further enacted, That the legislature may dissolve the said corporation, when the income arising from said toll, shall have fully compensated the said corporation for all monies they may have expended in purchasing, making, repairing and taking care of said road, together with an interest thereon of fourteen per centum per annum, and thereupon the right, interest and property of said road, shall be vested in the people of this State, and be and remain at their disposal—*Provided,* that if the said corporation shall not commence their operations on the said road within one year after passing of this act, or shall not within five years afterwards complete the same, according to the true intent and meaning of this act, then and in either of these cases this act shall cease, be void, and of no effect.—

Dissolution of corporation.

CHAP. 95.

AN ACT relative to wharves in the city of New York.

PASSED the 31st of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the owners of wharves in the city of New York to ask and receive to their own use the following rates of wharfage for all ships and vessels using their wharves respectively, that is to say; for every vessel under the burthen of fifty

Rates of wharfage in New York city.

tons at the rate of fifty cents per day; for every ship or other vessel of the burthen of fifty tons, and under the burthen of one hundred tons, at the rate of sixty two and an half cents per day; for every ship or other vessel of the burthen of one hundred tons, and under the burthen of one hundred and fifty tons, at the rate of seventy five cents per day; for every ship or other vessel of the burthen of one hundred and fifty tons, and under the burthen of two hundred tons at the rate of eighty seven and an half cents per day; for every ship or other vessel of the burthen of two hundred tons, and under the burthen of two hundred and fifty tons at the rate of one hundred cents per day, for every ship or other vessel of the burthen of two hundred and fifty tons, and under the burthen of three hundred tons, at the rate of one hundred and twelve and an half cents per day for every ship or other vessel of the burthen of three hundred tons, and under the burthen of three hundred and fifty tons at the rate of one hundred and twenty five cents per day, for every ship or other vessel of the burthen of three hundred and fifty tons, and under the burthen of four hundred tons, at the rate of one hundred and thirty seven and an half cents per day, for every ship or other vessel of the burthen of four hundred tons, and under the burthen of four hundred and fifty tons at the rate of one hundred and fifty cents per day, for every ship or other vessel of the burthen of four hundred and fifty tons, and under the burthen of five hundred tons at the rate of one hundred sixty two and an half cents per day; for every ship or other vessel of the burthen of five hundred tons and under the burthen of five hundred and fifty tons at the rate of one hundred and seventy five cents per day, for every ship or other vessel of the burthen of five hundred and fifty tons and under the burthen of six hundred tons at the rate of one hundred and eighty seven and an half cents per day, for every ship or other vessel of the burthen of six hundred tons and upwards to pay twelve and an half cents in addition for every fifty tons in addition to the rate last mentioned for every day such ship or vessel shall use or be made fast to any of the said wharves.

Additional
rates in
certain
cases.

And be it further enacted, That whenever any ship or other vessel shall be brought to any dock or wharf to repair or careen, and it is found necessary to sling or erect any stage or stages on the sides of the said vessel for the more convenient caulking or repairing the same, or that any boats, scows or floating stages are brought along side said vessel for the purpose of caulking, repairing or careening as aforesaid, it shall and may be lawful for the owner or owners of said wharf to ask, demand, take and receive thirty three and one third per cent in addition to the sum the said vessel is liable, and compelled to pay for her wharfage as aforesaid.—

Wharf-
ingers; dis-
putes.

And be it further enacted, That it shall be lawful for the owner of any wharf in the said city to appoint a person to be wharfinger thereof, who shall continue at the pleasure of such owner, and who may in his own name or in the name of such owner, ask and receive the wharfage as it shall become due, and if any difference shall arise between such owner or wharfinger, and the master, owner or agent of any ship or vessel concerning the burthen thereof, either party may apply to one of the wardens of the port of New York who shall decide such difference by measuring the ship or vessel or in such other manner as he shall deem best, and shall if required by either party certify under his hand the tonnage of such ship or vessel and the same shall be final in respect to the rate of wharfage thereof and the expences of such determination shall be paid by the party against whom it shall be given, *provided however* that the same shall not exceed one dollar and twenty five cents.—

And be it further enacted, That every ship or other vessel which shall make fast to any other ship or vessel that shall be fastened to any wharf and being so fastened shall load, unload or careen, shall pay the one half of the rate of wharfage such ship or vessel would have been liable to pay if fastened to such wharf, and there loaded, unloaded or careened.—

Vessels fastened to others at wharf.

And be it further enacted, That the master or owner of any ship or other vessel, or in their absence, the factor or agent to whom such ship or vessel shall be consigned shall be liable to pay the wharfage due for such ship or vessel; *provided however,* that such factor or agent shall not be liable for the same unless an account of the wharfage due be delivered to such factor or agent or if absent left at his usual place of abode, and the money there demanded before the departure of such ship or vessel from the port.—

Who liable to pay wharfage.

And be it further enacted, That when any ship or other vessel has laid twenty four hours at any wharf, and the master or owner, refuses or neglects to pay the wharfage as aforesaid or to give satisfactory security for the payment of the same being thereunto required by the owner or wharfinger, by notice in writing being left on board with the mate or one of the hands belonging to said vessel; it shall and may be lawful for the owner or wharfinger to distrain for such wharfage on any goods or chattels found on board such ship or vessel, and so from time to time as often as twenty four hours wharfage shall become due, and the goods and chattels so distrained, to sell and dispose of in the same manner as is provided in the case of rent.—

Distress for wharfage.

And be it further enacted, That if the master or owner of any ship or other vessel shall cause to be discharged therefrom any ballast consisting of earth, gravel or stones into any dock, or upon any wharf within the said city of New York without the consent of the owner or wharfinger thereof, the master or owner of such ship or other vessel shall for every such offence forfeit and pay to the owner of such dock or wharf two dollars and fifty cents to be recovered with costs of suit before any court having cognizance thereof; in the name of the said owner or wharfinger, and if the master or owner of such ship or other vessel having discharged any such ballast upon any wharf without consent as aforesaid and after notice for that purpose in writing shall neglect or refuse to remove the same, he shall forfeit and pay, for every day during such neglect or refusal the same sum as by law shall be chargeable for the wharfage of such ship or vessel; *provided however* that no agent or factor transacting business for any person residing out of, or absent from this State, shall be liable to any penalty imposed by this section unless an account be delivered and the money demanded of such factor or agent as mentioned in the preceding section of this act.—

Forfeiture for discharging ballast without consent.

And be it further enacted, That if any person employed in repairing, sheathing or graving any ship or other vessel being in any dock within the city aforesaid shall cause any timber or other thing whatsoever, tending to fill up or obstruct such dock to be thrown into such dock he shall for every such offence forfeit and pay to the owner or wharfinger of such dock the sum of five dollars to be recovered in manner aforesaid.—

Penalty for obstructing dock.

And be it further enacted, That if any wharf in the said city shall be incumbered with lumber or other articles, so as to incommode the loading and unloading of vessels, or the passing and repassing of carts, the owner or wharfinger thereof shall give personal notice, or notice in writing to be left at the place of abode of the owner of such lumber or other articles or of his factor or agent, to remove the same in a reasonable time, and on neglect thereof, or if the owner of such articles or his

Removal of incumbrances on wharves.

factor or agent cannot be found in the said city, and have no place of residence therein the owner or wharfinger of such wharf may remove the same and keep them in custody till the charges of removal and storage of the articles removed be paid.

Rates of
craneage.

And be it further enacted, That the owner of any crane upon any of the wharfs aforesaid may ask and receive to his use from the master or owner of any ship or other vessel that shall employ such crane, the following rates, to wit, for taking out and putting in the mast of every sloop of the burthen of eighty tons, or upwards, the sum of ten dollars; and for taking out or putting in the mast of any sloop of eighty tons or upwards six dollars and twenty five cents, for taking out and putting in the mast of any square rigged vessel of the burthen of two hundred tons and upwards the sum of seven dollars and fifty cents; and for taking out and putting in the mast of any square rigged vessel or schooner under the burthen of two hundred tons six dollars and twenty five cents for taking out or putting in the mast of any square rigged vessel of the burthen of two hundred tons or upwards the sum of six dollars and twenty five cents; and for taking out or putting in the mast of any square rigged vessel or schooner under the burthen of two hundred tons five dollars.—

CHAP. 96.

AN ACT to authorise the building of a toll bridge over the Mohawk river.—

PASSED the 31st of March, 1801.

Canajoharie and
Palatine
Bridge
Company
incorporated.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That Barent Roseboom, Jacob Eacker, Philip Van Alstine, John Roof, John Jacob Diefendorf, Archibald Kane, Henry Frey Yates, Lawrence Gross and all such persons as shall associate for the purpose of erecting and building a bridge over the Mohawk river between the towns of Canajohary and Palatine in the county of Montgomery at or near a large round rock near and above the mouth of Canajohary or Schremlings creek shall be and hereby are made a corporation in fact and in deed by the name of The Directors and Company of the Canajohary and Palatine Bridge Company, and so to remain for the term of forty years, and by that name they and their successors for and during the said term shall and may have succession and shall be persons in law capable of suing and being sued pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever, in all manner of suits actions and causes whatsoever and that they and their successors shall be in law capable of purchasing, holding and conveying any estate real or personal for the public use of the said corporation, *provided* that the whole of the estate of the said corporation shall not exceed in value ten thousand dollars. *And provided further* that the said corporation shall in no wise build or commence to build the said bridge until they shall have contracted with and satisfied the owners of the land on each side of the said river for liberty and permission so to do;—

Directors,
election of.

And be it further enacted, That the stock, property affairs and concerns of the said corporation, and the manner of obtaining subscriptions thereto, shall be managed directed and conducted by five directors, who shall be stockholders, and shall together with a treasurer be annually chosen and elected on the first Tuesday in June in every year, at such

time and at such place as the directors for the time being shall appoint, of which notice shall be given in one of the news papers printed in the city of Albany and in the news paper printed in the county of Montgomery at least thirty days before the day of meeting that all elections for treasurer and directors shall be by ballot, and such persons who shall at any such election have the greatest number of votes given as treasurer, shall be the treasurer and in like manner such five persons who shall have the greatest number of votes at such election shall be directors, and shall hold their offices for one year and until others shall be chosen in their places; that if any vacancies shall happen among the directors by death resignation or otherwise such vacancies shall be filled for the remainder of the year, in which they may happen, by the appointment of the other directors for the time being or a majority of them; and that the first directors shall be Barent Roseboom, Jacob Eaker, John Frey, Conrad Gansevoort and Jonas Oothoudt and that Adam Roof be the first treasurer, who shall hold their offices until the first Tuesday of June in the year of our Lord one thousand eight hundred and two, and until others shall be chosen to succeed them, and that the said directors shall at their first meeting after such election appoint one of their number president.

And be it further enacted, That the number of shares or subscriptions constituting the stock or fund of the said corporation shall not exceed four hundred shares; that each share shall be twenty five dollars, and that each stockholder shall be entitled to a number of votes proportioned to the number of shares which he or she shall have or hold in his or her name, according to the following ratio, that is to say, every owner of one or more shares to the number of four, shall have one vote; of five shares and under ten, three votes; of ten shares and less than twenty, five votes; of twenty shares eight votes, and one vote for every five shares above twenty.—

Capital stock.

And be it further enacted, That the president and directors for the time being, or a majority of them, shall have the disposition of the funds of the said corporation to and for the uses aforesaid, and shall annually on the first Tuesday in June lay before the stockholders of the said corporation a general statement of their accounts and proceedings, which said statement of their accounts and proceedings it shall be the duty of the president and directors to lodge with the treasurer, at least ten days previous to such annual meetings for the inspection and examination of the stockholders, and the president and directors for the time being or the major part of them, shall have power to make and prescribe such rules and regulations as to them shall appear needful and proper touching the management and disposition of the stock property and estate of the said corporation, and touching the duties and conduct of their secretary clerks agents and servants employed therein, and touching all such matters as appertain to the said corporation, with power to appoint such and so many workmen clerks and servants for the erecting and building of the said bridge, as they may deem necessary.

Power of directors.

And be it further enacted, That such inhabitants as reside within three miles of the said bridge, shall not be subject to the payment of any toll for passing and repassing the said bridge on foot for the term of six years after the passing of this act.

Exemption from toll.

And be it further enacted, That in case the said bridge shall not be erected, built and completed on or before the first day of October in the year of our Lord one thousand eight hundred and three then and in such case the corporation by this act created shall be adjudged and considered as dissolved.

Charter forfeited unless bridge erected in time limited.

Rate of
toll to be
received.

And be it further enacted, That as soon as the said bridge shall be compleated, and the judges of the court of common pleas in and for the said county or a majority of them shall upon inspection certify under their hands that the said bridge is well and sufficiently constructed and built, and will admit of the passage of loaded teams and other carriages, it shall and may be lawful for the said president and directors to erect a gate at either end of the said bridge and demand receive and take for the use of the said corporation a toll not exceeding the following rates, to wit, every four wheel pleasure carriage drawn by two horses, nineteen cents if drawn by four horses twenty five cents ; every two wheel pleasure carriage drawn by one horse nine cents, and if drawn by two horses twelve and an half cents every waggon and two horses, twelve and an half cents, and if drawn by four horses nineteen cents ; each sled and horses six cents, each ox waggon or cart and two oxen twelve and one half cents ; each additional yoke of oxen six cents ; every one horse cart six cents ; every one horse sled six cents, every man and horse six cents ; every foot passenger two cents ; every horse, jack or mule three cents, every cow or other neat cattle half a cent, every score of sheep or hogs, ten cents ; and so in proportion for a greater or less number.

Bridge to
vest in
people
after forty
years.
Dissolution
of corpora-
tion.

And be it further enacted, That from and after the expiration of said term of forty years the said bridge with its appurtenances, shall become the property of, and be vested in the people of this State.—

And be it further enacted, That if the said bridge after the same shall be compleated shall at any time during the said term of forty years be impassible for the term of thirty days, that the said corporation shall be and the same is hereby declared in such case to be dissolved, *providea nevertheless*, that no such dissolution shall take place, by reason of the said bridge being carried away by the ice, if the said bridge shall be rebuilt within eighteen months after the same shall have been so carried away.

Regula-
tions as to
construc-
tion of
bridge.

And be it further enacted, That the said bridge shall not be less than twenty feet wide, and shall be well secured with a good and sufficient railing on each side thereof not less than four feet and six inches high, and that if the navigation of the said river shall during the said term of forty years be so improved, as to be navigable by boats with fixed standing masts, the said president, directors and company shall construct, or cause to be constructed a good and sufficient draw at least ten feet wide and shall whenever applied to for that purpose by any person or persons ascending or descending the said river in any such boat or boats raise and open the said draw and permit such boat or boats to pass free of any expence : *Provided always*, that nothing in this act contained shall be construed so as to prejudice the corporate rights of the Western Inland Lock Navigation Company.

CHAP. 97.

AN ACT further to amend an act to establish a turnpike corporation for improving the road from the Springs in Lebanon to the city of Albany.

PASSED the 31st of March, 1801.

Preamble.

WHEREAS the president and directors of the Rensselaer and Columbia Turnpike Road have represented by their petition, that great difficulties

occur in proportioning the toll between the several gates contemplated to be erected across the said road, and have solicited the interposition of the legislature to remedy the same; — therefore

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That as soon as the said corporation shall have completed five miles of the road from the west end thereof, and obtained a permit from the governor in the manner required by the act incorporating said company, to erect a gate and turnpike across said road, it shall and may be lawful for the said president directors and company to erect one gate and turnpike across the said road and to appoint a toll gatherer or toll gatherers to collect and receive of and from all and every person and persons using the said road the tolls and rates herein after mentioned and no more and as soon as the said corporation shall have completed ten miles from the east end of said road and obtained a permit in the manner aforesaid it shall be lawful for the said president directors and company to erect a turnpike and gate across the said road, — and to appoint a toll gatherer or toll gatherers to collect and receive of and from all and every person or persons using the said road the tolls and rates herein after mentioned and no more and as soon as the corporation shall have completed the intermediate residue of said road and obtained a permit in the manner aforesaid, it shall and may be lawful for the said president directors and company to erect another turnpike and gate across the said road and to appoint a toll gatherer or toll gatherers to collect and receive of and from all and every person or persons using the said road the tolls and rates herein after mentioned and no more, that is to say, for every score of hogs or sheep and in that proportion for a greater or less number passing through said west gate, four cents, the middle and eastern gates, eight cents each, for every score of cattle, mules or horses, and in that proportion for a greater or less number; at said west gate, ten cents, and the middle and eastern gates, twenty cents each, for every horse and rider, or led horse, at said west gate, two and an half cents, at the middle and eastern gates five cents each for every sulkey, chair, or chaise, with one horse; at said west gate, six cents, and at said middle and eastern gate twelve and an half cents each; for every cart drawn by one horse at said west gate three cents, and at said middle and eastern gates six cents each for every chariot, coach, coachee or phaeton, at said west gate, twelve and an half cents, at the middle and eastern gates twenty five cents each; for every stage waggon or other four wheel carriage or cart drawn by two horses or oxen, at said west gate six cents and one and an half cents for every additional horse, mule, or ox; and at the middle and eastern gates twelve and an half cents each and for every additional horse mule or ox three cents each for every sleigh or sled drawn by two horses mules, or oxen at said west gate four cents, and half a cent for every additional horse, ox or mule, and at the middle and eastern gates, eight cents each, and for every additional horse, mule or ox one cent each; and it shall be lawful for the toll gatherers to stop any person or persons, riding, leading or driving any horse, mule, cattle, sheep, hogs, or any kind of carriages until they shall respectively have paid the toll above specified. — *Provided always,* that the said west gate shall be erected at a distance not less than three miles from the west end of said road adjoining Hudson's river, and that the said middle gate shall be erected at a distance not less than ten miles from the said west gate.

And be it further enacted, That the first section of the act entitled, "An act to amend an act entitled, "An act to establish a turnpike corporation

Toll-gates and rates of toll on Rensselaer and Columbia Turnpike.

Part of act recited repealed.

for improving the road from the springs in Lebanon to the city of Albany, and a like corporation for improving the road from the village of Bath to the Massachusetts line, and for repealing an act therein mentioned" passed the fourth day of April one thousand eight hundred be and the same is hereby repealed.—

CHAP. 98.

AN ACT for regulating trials of issues and for returning able and sufficient jurors.—

PASSED the 31st of March, 1801.

Jury trials
in supreme
court.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That all issues to be joined in the supreme court, or in any other court, and brought into the supreme court to be tried, and which may be triable by a jury, shall be tried in the proper county where the lands, tenements or hereditaments in question shall be, or the cause of action shall arise, unless the said supreme court, upon motion of either party shall think proper to order the trial to be at the bar of the said court, which shall only be done, in cases of great difficulty, or which require great examination; but this section shall not extend to any action merely transitory, nor prevent the said court from ordering trials by foreign juries, in all cases where it shall be proper.—

Where pro-
cess issued
for jury at
next term.

And be it further enacted, That whenever any such issue is to be tried at any circuit court or sittings, the tenor or transcript of the record, with a respite of the jury, or an award of process for their appearance to the supreme court at the next term, unless the justices of the supreme court, some or one of them, at the day and place appointed for holding the said circuit court or sittings at which such issue is or ought to be tried, shall sooner come, shall be made and sent under the seal of the said supreme court, to such of the justices of the same court, as may hold the said circuit court or sittings in the county where such issue is or ought to be tried; and a similar clause shall be inserted in the process for the appearance of the jury at the said circuit court or sittings; and if one party demand and have such tenor or transcript of the record as aforesaid, to deliver to such justices or justice before whom such issue is to be tried, another tenor or transcript of the same record shall be made and delivered to the other party, if he require the same.—

Notice of
trial when
defendant
resides
more than
forty miles
from where
court held.

And be it further enacted, That no indictment, information, or cause whatsoever, shall be tried before any judge or judges of any court of record within the State, where the defendant shall reside above forty miles from the place where the court is held, in which such cause shall be tried, unless notice of trial in writing has been given at least fourteen days before such intended trial and that in case any party shall have given such notice of trial as aforesaid, and shall not afterwards duly countermand the same in writing, at least six days before such intended trial, every such party shall be obliged to pay unto the party, to whom such notice of trial shall have been given, the like costs and charges, as if such notice of trial had not been countermanded.—

Return of
writs, etc.,
by sheriff.

And be it further enacted, That the sheriffs and other officers to whom the return of any writs, juries or certificates shall appertain, shall cause the same to come before the said circuit courts or sittings, as the case may require, to be held in their respective counties together with the panels attachments, reattachments, summons, resummons, and all other

minuments whatsoever, any ways concerning the same in all things according to law; *provided always* that the attachments reattachments, summons and re-summons thereof shall be made at least fifteen days before the holding of the said courts.—

And be it further enacted, That all issues upon legality of marriage, and upon pleas or allegations, of general or special bastardy, shall be tried by the country and not otherwise.— Certain issues to be tried by the country.

And be it further enacted, That when any one who is or shall be impleaded, before any judges or justices, doth alledge an exception, praying that the justices will allow it, and they will not allow it, if he who alledged the exception do write the same exception, and require that the justices will put their seal to it for a witness, the justices shall do so; and if one will not, another of the justices shall: And if a writ shall be brought to reverse the judgment in such case, and the same exception be not found in the roll, and the plaintiff shew the exception written, with the seals of the justices put to it, the justice or justices who sealed the same shall be commanded to appear at a certain day, either to confess or deny his or their seal, and if the justices cannot deny the same, the court shall proceed to judgment, according to the same exception, as it ought to be allowed, or disallowed. Exceptions.

And be it further enacted, That every venire facias, for the trial of any issue in any action, civil or criminal, in any court of record within this State, shall be awarded of the body of the proper county, where such issue is triable, except in cases where foreign juries shall be deemed necessary, in which cases the venire facias shall be awarded of the body of the county from which such foreign jury shall be directed to come.— Award of venire facias.

And be it further enacted, That the attorney for the party to whom the postea on the return thereof ought in the first instance to be delivered, shall make up and return the same, and to that end the clerk forthwith after the trial or other proceedings shall have been finally had at the circuit court or sittings, shall deliver the record to the attorney of such party and annex thereto a certified copy of the minutes of the court containing such trial or other proceedings, and if there shall be a special verdict or demurrer to evidence, then he shall also deliver all such writings as may have been read in evidence on the trial, and which ought to be put on the record. *Provided nevertheless,* that where there shall be a special verdict, copies only of such original writings as may have been read in evidence on the part of the defendant shall be delivered to the attorney for the plaintiff.— Record and minutes of the court to be furnished by the clerk.

And be it further enacted, That it shall not be lawful for more than thirty six, nor less than twenty four jurors, to be summoned for the trial of issues in the supreme court, or in any circuit court, sittings, court of oyer and terminer and gaol delivery, mayors court, court of common pleas or general sessions of the peace, to be held in any city or county of this State, unless otherwise directed by one of the judges of such court; and that all jurors who shall be returned upon trials of issues in the said courts (other than strangers upon trials per medietatem lingue), shall every of them be above the age of twenty one, and under the age of sixty years, and shall each of them have, in such county in his own name or right, or in trust for him, or in his wife's right, in the same county, a freehold in lands, messuages or tenements, or of rents in fee, or for life, of the value of one hundred and fifty dollars, free of all reprises, debts, demands or incumbrances whatsoever; and in the cities of New York, Albany or Hudson a freehold of the value aforesaid, or a personal estate of the like value free from all reprises, debts, demands How many jurors returned; disqualifications.

or incumbrances whatsoever. And if any man not so qualified, shall be returned upon any such jury, or tales in default of such jurors, it shall be good cause of challenge to the juror not so qualified; and such person, so returned, shall be discharged upon such challenge, or his own allegation and oath thereof: And to the end that jurors so qualified may be always returned, the writs of venire facias juratores, which shall at any time hereafter be awarded for the impanelling of juries within any of the counties of this State, except the county of New York, shall have, in the body thereof, the words following; that is to say, "Twelve free and lawful men of your county, each of whom shall have, in his own name or right, or in trust for him, or in his wife's right a freehold in lands, messuages or tenements, or of rents in fee, or for life, of the value of one hundred and fifty dollars free from all reprises, debts, demands or incumbrances whatsoever;" and in the city and county of New York, the words following; that is to say, "Twelve free and lawful men of your city and county, each of whom shall have, in his own name or right, or in trust for him, or in his wife's right, a freehold in lands, messuages or tenements, or a personal estate of the value of one hundred and fifty dollars free of all reprises, debts, demands or incumbrances whatsoever;" and in the cities of Albany and Hudson, for trials in the respective mayor's courts, the words following; that is to say, "Twelve free and lawful men of your city, each of whom shall have in his own name or right, or in trust for him, or in his wife's right, a freehold in lands, messuages or tenements, or a personal estate of the value of one hundred and fifty dollars free of all reprises, debts, demands or incumbrances whatsoever;" and the residue of the said respective writs shall be in the usual form.—

Form of writ.

Notes of issue to be filed.

Drawing of jurors by clerk.

And be it further enacted, That at the same time that notice of trial shall be given to the opposite party, the like notice in writing together with a note of the issue shall be served on the clerk of the court in which such issue is to be tried.

And be it further enacted, That whenever any process shall be issued for summoning a jury for any trial, in any of the said courts to be held in any city or county of this State, the mayors courts of the cities of Albany and Hudson excepted, the sheriff or other officer to whom such process shall be directed, shall, immediately on receiving the same, repair to the clerk of the same city or county, who shall thereupon in the presence of such sheriff or officer, or in the presence of one of the judges of the mayor's court, or court of common pleas of such city or county, whose duty it shall be, on being served with a request in writing, to attend the clerk's office, proceed to draw out of the box by him provided for that purpose, and containing on slips of paper the names of the jurors of his city or county, with their places of abode and additions, as the same shall have been duly certified and transmitted to him, as many of the said slips of paper, as there are jurors to be summoned upon such process, and the names contained on such slips of paper, shall be the persons who are to be summoned to serve as jurors at the then next court, unless any of them shall be dead, or shall have changed their place of residence to any other city or county, or be absent from the city or county, or not qualified within the knowledge of such sheriff, officer, clerk or judge, to serve as jurors; and if the persons named, on any of the said slips of paper so drawn, shall be dead, removed, or not qualified as aforesaid, within the knowledge of such sheriff, officer, clerk or judge, then the said clerk shall immediately destroy such slips of paper, and proceed to draw out of the said box, until the panel shall be completed; and the said slips of paper containing the names of the

jurors named in the said panel, shall, by the said clerk, be put together, and carefully be kept locked up in some safe place, until after the end of the term or session of the court, at which such jurors are to appear; and the clerk of the said court shall immediately make out and certify under his hand, a panel of the names of such jurors so drawn out, with their respective places of abode and additions, and deliver the same to such sheriff or officer, whose duty it shall be to summon the several persons, whose names are contained in such panel, at least eight days previous to the sitting of any such court, and to make return in what manner he has served such process; and the clerk of such court shall, as soon as may be, after the end of the term or session of the court, at which such jurors were to appear, put such of the slips of paper containing the names of the jurors, who appeared at such court, and were not excused from serving, or discharged, into another box, to be by him provided and kept for that purpose, and such clerk shall destroy such slips of paper, containing the names of any jurors, as appeared at such court, and were adjudged not to be qualified, or were privileged or exempted from serving on juries; and such clerk shall return to the box, from which they were drawn, such slips of paper containing the names of jurors, who made default in appearing, or were excused from serving; and the said clerk shall proceed in like manner, to draw out of the said box, until all the said slips of paper shall be drawn out of such first box, and after the slips of paper are all drawn out of the first box, the said clerk shall proceed in like manner, to draw the names of the jurors out of the other box, returning the slips of paper containing the names of the jurors so drawn, into the first box, and proceed in like manner as often as occasion shall require.

And be it further enacted, That the clerk of the supreme court at the city of New York, and the clerk of the circuit court and sittings, and of the courts of oyer and terminer and gaol delivery within the said city of New York, shall within one week after the end of each of the said courts within the said city, make and deliver to the town clerk of the said city, a list of all the jurors who shall have appeared in such courts of which they are respectively clerk and also a list of all such as made default, and of such as were excused and of such as were discharged by reason of their being privileged or not qualified, and the clerk of the supreme court at the city of Albany shall in the like time and manner make and deliver to the clerk of the county of Albany a list of all the jurors who shall have appeared in the said supreme court or in the sittings in the said city of Albany, and a like list of all such as made default and were excused and discharged as aforesaid.—

And be it further enacted, That the cities of Albany, Hudson and Schenectady, shall be considered as towns for all the purposes intended by this act, and the mayor, aldermen and commonalty of the city of New York in common council convened, and the supervisors and assessors of the said cities of Albany, Hudson and Schenectady and the supervisor, town clerk, and assessors, of the several towns, shall, from time to time, as occasion shall require, and at least once in every year, cause the names of each person residing in their respective cities and towns, and qualified, and of sufficient ability and understanding to serve on juries in the several courts before mentioned, and not contained in either of the said boxes, with their places of abode and addition, to be certified in writing, and transmitted to the clerk of the county, who shall thereupon cause such names, with the places of abode and additions, to be written on separate slips of paper and put into the box, out of which the names of the jurors are next to be drawn as aforesaid; and it is

List of
jurors who
have ap-
peared,
been ex-
cused or
disquali-
fied.

Lists of
persons
qualified
for jury
duty to be
filed with
clerk.

hereby made the duty of each of the town clerks in the several towns in the respective counties to transmit a copy of the names of all such persons (which are contained on the said slips of paper) as are dead, removed out of the county, or not qualified to serve as jurors, to the clerk of the county, at least once in every year, who shall thereupon destroy the several slips of paper containing such names.

And be it further enacted, That if a sufficient number of jurors do not appear at any of the courts mentioned in this act or after appearance of a full jury by challenge, the jury is like to remain untaken for default of jurors, such court is hereby authorised upon motion made in behalf of the people of this State or of any party to command the sheriff to name and appoint, as often as shall be requisite, so many of such other persons of the said county, qualified to serve on such juries, according to the intent of this act, and to add and annex their names to the former panel, as shall make up a full jury of twelve men, for the trial of every such issue; and the said courts shall proceed to the trial of every such issue with those jurors that were before empanelled and returned, and with those newly added and annexed to the said former panel, by virtue of this act, in such wise as they might or ought to have done if all the said jurors had been returned upon the first panel.—

And be it further enacted, That the fees of the clerks of the respective counties for drawing every such jury, and making the panel, shall be paid to them by the sheriff, or other officer, at whose request it shall be done; and the sheriff, or other officer, shall be allowed for the same in his account against the people of this State; and that the sheriff, or other officer, to whom any writ or process shall be directed, for the trial of issues in the said respective courts, (except in cases of special juries) shall annex a panel of the same jurors, with their places of abode and additions, to all the said writs or process, returnable at the same court.—

And be it further enacted, That it shall be the duty of every sheriff, or other officer to furnish any person applying, with a copy of the panel of the jurors to serve on the trial of issues in any of the said courts.—

And be it further enacted, That the names of all the persons contained in the panel annexed to the writ of venire facias juratores, need not be inserted in the writs of habeas corpora juratorum or distringas, subsequent to such writ of venire facias juratores; but it shall be sufficient to insert in the mandatory parts of such writs of habeas corpora juratorum, "the bodies of the several persons named in the panel to this writ annexed," and in the mandatory parts of such writs of distringas, "the several persons named in the panel to this writ annexed," or words of the like import, and to annex to such writs respectively, panels containing the same names, places of abode and additions, as were returned in the panels to such venire facias juratores.—

And be it further enacted, That every grand or petit juror, constable or other officer, whose duty it shall be to attend any of the courts of record in this State, and who shall refuse or neglect to attend accordingly, shall be liable to be fined by such court, in a sum not exceeding twenty five dollars; and in every case where such fine shall be imposed by any of the said courts, such court shall immediately cause public proclamation of such fine, to be made, and if such delinquent juror, constable or other officer, who shall be fined as aforesaid shall not, during the term or sitting of the said court in which such fine shall be imposed, shew a satisfactory reason or excuse to the said court, for his default or non-attendance, then such fine, so imposed, shall be estreated into the court of exchequer, in order that the same may be levied and paid into the treasury, for the use of the people of this State.—

Extra
panel of
jurors.

Fees of
clerk and
sheriff.

Copies of
jury list.

Insertion
of names
in writs.

Penalty for
failure of
officer to
attend.

And be it further enacted, That in all cases where the sheriff or other officer shall not be able to summon personally, any person directed to be summoned as a juror, by reason of absence from home, a summons in writing left at the usual place of abode of such person, within the time prescribed for that purpose, (with some person of suitable age and discretion) shall be deemed a sufficient notification, and that in all cases of a summons of a juror in writing as aforesaid, the court shall suspend the imposing a fine for his non-attendance, until the next term or sessions of such court, to the end that such juror may have time to make it appear to such court, that he was absent from home at the time such summons was left at his place of abode, and did not return in season to attend at the said court; and to the end, that such defaulting jurors may have such notice, the clerks of the several counties shall forthwith transmit to the sheriff of the county, a list of the names of such defaulting jurors who shall without delay, notify such jurors of their respective defaults, and liability to a fine on that account.—

Service of
summons
on jurors.

And be it further enacted, That upon all trials in any of the courts aforesaid (except by struck juries or where views shall have been had) the name of every person who shall be summoned and impanelled as a juror upon such trial, with his place of abode, and addition shall be written on several and distinct pieces of paper or parchment, being all as near as may be of equal size, and shall be delivered unto the clerk of the court in which such trial is to be had, by the sheriff or other officer who shall have returned such jury, or his deputy or agent, and shall, by direction and care of such clerk, be rolled up all as near as may be in one and the same manner, and put together into a box, to be by each respective sheriff provided for that purpose; and when any issue for the trial whereof they are returned as jurors, shall be brought on to be tried, the clerk of the court, or some other indifferent person, by direction of the court, shall, in open court, draw out twelve of the said papers or parchments, one after another; and if any person whose name shall be so drawn shall not appear, or be challenged and set aside, then such further number thereof shall be drawn, as shall make up the number twelve who do appear, after all causes of challenge allowed, as fair and indifferent. And the said twelve men, so first drawn and appearing, and approved as indifferent, shall be sworn, and be the jury to try such cause or issue, and their names shall be marked in the panel; and the names of the men so drawn and sworn shall be kept apart by themselves, in some other box, to be provided as aforesaid, and kept for that purpose, until such jury shall have given in their verdict and the same is recorded, or until such jury shall, by consent of the parties, or leave of the court, be discharged, and then the said names shall be rolled up again, and returned to the former box, there to be kept with the other names remaining at that time undrawn; and so it shall be done as often as any issue remains to be tried: But the names of such as shall at any time be drawn, and shall not appear, or be challenged and set aside, shall, immediately after the jury in such case be sworn, be rolled up again, and returned to the same box with the names at that time undrawn. And if any issue shall be brought on to be tried in any of the said courts before the jury, in any other cause shall have brought in their verdict, or be discharged, it shall be lawful for the court to order a jury to be drawn in manner aforesaid, out of the names then remaining in the said first mentioned box, for the trial of such issue which shall be so brought on to be tried.

Impannel-
ing of jury
for trial of
cause.

And be it further enacted, That in any action in the supreme court, or in any of the courts of common pleas or mayors courts in either of the

View of
premises in

question
by jury.

cities or counties of this State, where it shall appear to the court in which such action may be depending, that it will be proper and necessary that the jurors who are to try the issues in any such actions should have a view of the messuages, lands or place in question, in order to their better understanding the evidence that will be given upon the trials of such issues, in every such case the said respective courts, in which such actions shall be depending, may order special writs of *distringas*, or *habeas corpora juratorum*, to issue, by which the sheriff or other officer to whom the said writ shall be directed, shall be commanded to have six out of the first twelve of the jurors named in the panel annexed to such writ, or some greater number of them, at the place in question, some convenient time before the trial; who then and there shall have the matters in question shewn to them by two persons in the said writs named, to be appointed by the court; and the sheriff or other officer who is to execute the said writs, shall, by a special return upon the same, certify that the view was had according to the command of the said writs; and in such case, if there is not a struck jury, and the parties, or their agents or attornies shall not mutually agree, by writing under their hands, on the jurors who are to have the view, the names of all the jurors returned for the trial of such cause with their places of abode and additions, shall be written on several and distinct pieces of paper or parchment, and rolled up and put into a box as aforesaid in the presence and by the direction of one of the judges of the court in which such cause shall be depending, and then the names of so many of them as shall be necessary to go upon the view, but not less than six shall be drawn out, in the presence of such judge, and the names of the jurors so mutually agreed upon, or balloted as aforesaid, with their places of abode and additions, shall be first written on the panel to be annexed to such writs of *habeas corpora juratorum* or *distringas*; and the names of the residue of the jurors returned for the trial of such cause, with their places of abode and additions, shall be written on such panel immediately following the names of the jurors so agreed upon or balloted for the view, in the same order they may stand in the panel annexed to the *venire facias*: And when such cause is brought on to be tried, and in all other cases where a view shall be had by virtue of any writ original or judicial, such of the jurors as shall have had the view, and do appear, shall be first sworn upon the jury to try the same, before any drawing; and then so many more shall be drawn as aforesaid, to be added to the viewers who appear, as shall after all defaults and challenges allowed, make up the number twelve.

When
struck jury
to be al-
lowed; pro-
cedure.

And be it further enacted, That no struck jury shall be allowed unless on the order of the court when they may deem it necessary, by reason of the importance or intricacy of the case, and whenever they shall so deem it necessary, it shall be lawful for the supreme court or the court of common pleas or mayors court in which the cause is depending, to order the clerk of the county to return into the office of the clerk of the said court; or if the clerk of the county be the clerk of the said court, then to have ready in his office at a certain day, a book containing the names of the several persons in his county qualified to serve as jurors on such trial, with their places of abode and additions, and after the return of such book, the party applying for such struck jury, shall give due notice to the opposite party, and to the clerk of the said court, or his deputy, of the time and place of striking such jury; at which time and place, the clerk of the said court, or his deputy, shall attend with the said book, and shall, in the presence of the parties, or such of them as shall attend for that purpose, copy out of the said book, the names of

forty eight such persons, with their places of abode and additions, as he shall think most indifferent between the parties, and best qualified to try such cause; and then the party applying for such struck jury, or his agent or attorney, shall first strike out one of the said names, and then the opposite party, or his agent or attorney, another; and so, alternately, until each shall have struck out twelve; but if such opposite party shall not attend such striking, nor any person in his behalf, then the said clerk, or his deputy, shall strike for the party not attending; and when each have struck out twelve as aforesaid, the remaining twenty-four shall be the jury to be returned to try the said cause; and the clerk of the said court, or his deputy, shall thereupon make a fair copy of the names of the said remaining twenty-four persons, with their places of abode and additions, and certify the same under his hand, to be the list of jurors, struck as aforesaid, for the trial of such cause or issue; which list shall be delivered to the sheriff, or other officer who ought to summon such jury, together with the venire facias; and such sheriff, or other officer, shall thereupon annex the same list to such venire and return the same as the panel of the jury to try such cause, and summon them according to the command of the same writ: And upon the trial of such cause, there shall be no balloting, but the jurors so struck shall be called as they stand upon the panel, and the first twelve of them who shall appear, and are not challenged, or shall be found duly qualified and indifferent shall be the jury, and be sworn to try the said cause; but the party who shall apply for such struck jury, shall pay the fees for striking thereof, and shall not have any allowance for the same, upon the taxation of costs. *Provided always*, that if the clerk of such court shall be interested in the cause, or related to either of the parties, or if it shall appear probable to the court that he is not indifferent between them, then and in every such case, the court shall nominate two proper persons, who are indifferent between the parties, to strike the jury, which persons shall, do, and perform every thing required to be done by such clerk, relating to the striking of such jury.—

And be it further enacted, That struck jurors shall be paid by the party at whose request such jury shall be struck, or his attorney, and it shall be lawful for every such juror to bring and maintain his suit for the recovery thereof, either against such party or his attorney in the cause.—

Fees of struck jurors.

And be it further enacted, That all manner of juries and inquests hereafter to be taken between aliens and citizens of any of the United States of America, in any of the said courts, and whether this State be party, or interested, or not, except in cases of treason, the one half of the jury or inquest shall be citizens of this State, and qualified by this act to serve on such juries or inquests, and the other half aliens, if so many aliens be in the city or county where such jury or inquest is to be taken and who shall be indifferent between the parties; and if there be not so many aliens or strangers, then there shall be put on such juries or inquests, as many aliens and strangers as shall be found in the same city or county who shall be indifferent as aforesaid, and the remainder, of citizens of this State qualified by this act to serve on such juries or inquests.

Actions between aliens and citizens.

And be it further enacted, That in all cases where the attorney general, in behalf of this State, or he who shall in any case prosecute for the people of this State, shall challenge any juror as not indifferent, or for any other cause, he shall immediately assign and shew the cause of such challenge, and the truth thereof shall be inquired of and tried, in the same manner as the challenges of other parties ought by law to be

Challenge of juror on behalf of State.

inquired of and tried; *provided*, that nothing in this act contained, shall be construed to take away the right of peremptory challenges, in any cases where the same are now allowed by law.—

Corrupt
conduct of
jurors.

And be it further enacted, That if any of the jurors sworn for the trial of any issues or other inquests to be taken between the people of the State of New York, and any party, or between party and party, shall take any thing, to give their verdict, and thereof be found guilty, in any court of record, either at the suit of any party or any other person that will sue for himself or for himself and the people of the State of New York, every of the said jurors shall pay ten times as much as he hath taken, with the costs of suit, and he that will sue, shall have the one half, and the people of the State of New-York the other half; and that all embraceors that procure such jurors and inquests, to take gain or profit, shall be punished in the same manner and form as the jurors; and if the party to the plea shall bring any such suit or action and shall recover therein, he shall also recover his damages, by the assessment of the inquest: And if the juror or embraceor so found guilty, shall not have whereof to make satisfaction in the manner aforesaid, he shall be imprisoned for one year.

Verdicts.

And be it further enacted, That no jury, upon any trial hereafter to be had, shall in any case be compelled to give a general verdict, so that they find a special verdict, and shew the truth of the fact, and require the aid of the court or justices.

Exemption
from jury
duty.

And be it further enacted, That any non-commissioned officer or private of any company of grenadiers, light infantry, artillery and riflemen of the militia of this State, and the commissioned officers of artillery in the city of New York, who shall produce a certificate dated within three months of the then present time, signed by the commanding officer of such company or regiment, that he belongs to such company, shall not be compelled to serve on any grand or petit jury within this State; nor shall the firemen belonging to any company of firemen now or hereafter to be established by law in any city town or village within this State, or the inspectors of the State prison, or the wardens of the port of New York, or the commissioners of the health office, be compelled to serve on any grand or petit jury so long as they continue to be firemen, inspectors, wardens or commissioners as aforesaid: And also the agents, superintendants, artificers and workmen of every kind employed in and about the Albany Glass Factory, belonging to the Hamilton Glass Manufacturing Society shall be exempted from serving as jurors during the time they shall be so employed. *And further*, that no Quaker or reputed Quaker shall be compelled to serve as a juror upon the trial of any indictment for treason or murder.

CHAP. 99.

AN ACT to divide the county of Tioga into jury districts.

PASSED the 31st of March, 1801.

Two jury
districts in
Tioga
county.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the judges and assistant justices in the county of Tioga shall at their next term of the court of common pleas to be holden in and for the said county on the first Tuesday of May next divide the said county into two districts as nearly equal as may be con-

venient, and shall cause the said division to be entered on the minutes of said court which entry shall designate each of said districts.

And be it further enacted That the clerk of said county shall immediately after the division of the said county in manner aforesaid provide four jury boxes for said county; and shall mark on two of said boxes the name of one of the said districts; and on the remaining boxes the name of the other of the said districts. And it shall be the duty of the said clerk to put the slips of paper containing the names of persons residing in each of the said districts, who are or shall be returned to him, in pursuance of the act entitled, "An act for regulating trials of issues, and for returning able and sufficient jurors," into one of the boxes belonging to the district in which such persons shall severally reside. Jury boxes.

And be it further enacted That jurors for the trial of issues in the circuit court, court of oyer and terminer, and gaol delivery, and court of common pleas and general sessions of the peace to be held in and for said county of Tioga at any time after the first Tuesday of May next, shall be taken from one of the jury boxes belonging to the district in which either of the said courts is then next to be held, in the manner directed in and by the act herein recited; and as if each of the said districts were separate and distinct counties any thing in the said act to the contrary notwithstanding. Drawing of juries.

And be it further enacted That it shall be lawful for the courts of common pleas and general sessions of the peace for the county of Tioga, to hold the said courts at a house about to be erected for that purpose at Chenango point, in the town of Chenango in the said county of Tioga instead of the house of Joshua Whitney in the town of Union, and at the court house at New Town alternately. Where courts to be held.

CHAP. 100.

AN ACT to amend an act entitled "An act to amend an act entitled" An act for the relief of Nathan Dean and others.

PASSED the 31st of March, 1801.

WHEREAS in and by the act to amend the act entitled "An act for the relief of Nathan Dean and others," it is declared that the sale or sales of the premises therein mentioned, or of such part thereof as may be necessary to be sold for the purposes thereby intended, shall be made and concluded within two years from the passing of said act. *And whereas* it appears that the letters patent, therein directed to be granted to Joseph Gasherie, Sluman Wattles and Peter Roggan, trustees therein named, have been but lately issued; by reason whereof the trustees aforesaid, have not had it in their power to proceed in the discharge of their trust: Therefore, Preamble.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That the sale or sales directed to be made by the said trustees, in and by the said hereby amended act, shall be made and concluded within two years from the passing of this act. Sales to be made in two years.

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CHAP. 101.

AN ACT for incorporating an aqueduct association in the village of Cazenovia, county of Chenango.

PASSED the 31st of March, 1801.

Preamble.

WHEREAS, John Lincklaen, together with sundry, other citizens, have associated for the purpose of supplying, the village of Cazenovia, with pure and wholesome water, for the use of such inhabitants thereof and others, as may be inclined to take the same.

Aqueduct Association of Cazenovia incorporated.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That John Lincklaen, William Whipple, Hooker Ballard, Elisha Farnham, Elijah Risley, Hiram Roberts, Eliakim Roberts, Horace Paddock, and such other persons, as may become interested, in the association or company formed for supplying the village of Cazenovia in the county of Chenango, with water by means of conduits, or aqueducts, shall be and hereby are created and made a corporation and body politic, in fact, and in name by the name of the Aqueduct Association, in the village of Cazenovia, and by that name shall be capable in law, to sue and be sued, plead, and be impleaded, in any court of record, but shall not be capable of holding any real estate, excepting, such as may be necessary, for such conduits or aqueducts in any other place, than within the said village, or any real or personal estate exceeding the annual value in the whole of one thousand dollars, exclusive of the profits or income of such conduits or aqueducts.

Election of officers; regulations.

And be it further enacted, That it shall and may be lawful for any three of the said persons, so associated, or to be associated by a notice to be given in writing, at two of the most public places in the town of Cazenovia five days at least, previous to any meeting to convene the said company or association at the most convenient, and public place in the said village; and such of the members of the said association, being at least a majority of the whole number as shall so convene, shall be and are hereby authorized by a vote of a majority present, to elect and appoint a treasurer clerk and collector, of such association; and such other agents, as may be necessary to carry into effect the objects of the association; to make and ordain all such bye laws, rules and regulations, relative to the said conduits or aqueducts, as they may deem proper and necessary for the superintendence, regulations, and management of the same, and of such as may be added thereto, and for the alteration, preservation, and reparation thereof, or for the equal assessment and collection, amongst the proprietors of the same aqueducts, in proportion to their respective rights or shares, of all costs and expences, arising in the execution, of all such bye laws, rules, and regulations aforesaid, and to impose penalties for the violation of the said bye laws, and regulations; and further to institute such suits in the name of such company or association, as may be necessary to recover damages that may be done to the said aqueducts, or for any penalty, imposed as aforesaid. *Provided* that no penalty to be imposed by virtue of any such bye laws, or regulations as aforesaid shall be contrary to the laws of this State, or exceed ten dollars for any one offence.—

Duty of officers.

And be it further enacted, That the said treasurer, shall receive and pay out all monies, collected by virtue of this act, agreeably to the orders and directions of the said association; and the said clerk shall enter in writing all the proceedings of the same association or company

when convened as aforesaid under this act, and the said collector shall levy and collect all such taxes, and sums of money so as aforesaid to be voted in pursuance of this act, agreeably to such tax lists or assessment roll as shall be made out, and delivered him by the said clerk, the same being by him certified, and subscribed, and shall pay the same monies over to the treasurer of the said association; and the said collector shall have the like powers, and proceed in like manner in the said collection as is by law prescribed to the collector of any town in the collection of the contingent charges of the county.

And be it further enacted, That all transfers of shares in the said association or company shall be made, and entered in a book to be by them provided for that purpose under such regulations as may be prescribed by the said association —

Transfers
of shares.

CHAP. 102.

AN ACT relative to special bail in the Supreme Court.

PASSED the 31st of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the several judges of the courts of common pleas within this State are hereby authorized in their respective cities and counties where they are commissioned, to take every such recognizance of bail as any person may be desirous to make before him, in any action in the supreme court or court of exchequer, and in such manner and form, and by such recognizance or bailpiece as the judges of the supreme court usually take the same; and every recognizance or bailpiece so taken and also every recognizance or bailpiece taken by a judge of the supreme court, shall be by the party making the same or by some one on his behalf filed in the office of one of the clerks of the supreme court within fourteen days after taking the same; and the said judges of the courts of common pleas shall examine the sureties to any such recognizance of bail, or bailpiece, when thereunto required by any person interested in or affected by such bail, concerning the value of such sureties, estate and personal circumstances, and the plaintiff shall have the like time for excepting against the sureties to be given in manner aforesaid, as is allowed, when such recognizance or bail is taken before one of the judges of the supreme court.

Special
bail, taking
of.

And be it further enacted, That it shall be lawful for the defendant in any action in the supreme court, to surrender himself, or for his bail or manucaptor to surrender him before a judge of the court of common pleas for the county where the defendant shall or may be found; and the judge before whom the surrender shall be made, shall thereupon by a committitur to be indorsed on a copy of the bailpiece, commit, the defendant to the gaol of the county accordingly, and the sheriff shall also indorse on the said copy of the bailpiece, a receipt, purporting, that the defendant hath been delivered to and received by him by virtue of such committitur, and which copy of the bailpiece, the receipt of the sheriff thereon being first acknowledged by him, or proved by a subscribing witness thereto before the judge who shall so commit the defendant, or before a judge of the supreme court, or a commissioner for taking affidavits to be read in the said court, being filed in the office of one of the clerks of the said court, a judge of the said supreme court may thereupon make an order for the attorney of the plaintiff to appear and shew

Surrender
of prisoner
by bonds-
men.

cause, why an exoneretur should not be indorsed on the original bail-piece, and further proceed therein as if the surrender had been made before a judge of the said supreme court.

In actions
of trespass.

And be it further enacted That in all actions of trespass upon land, the plaintiff shall be entitled to special bail, and an acetiam or proper clause for that purpose may be inserted in the said process; and the plaintiffs shall have all the advantages thereon and upon the bail bond to be taken on the arrest as in other actions where the defendant is held to bail; and both parties shall be subject to such discretionary rules and orders of court respecting such suits in trespass and on the bail bonds, as are used in other cases.

Time al-
lowed for
special
bail.

And be it further enacted That in cases where special bail may be required, if the defendant shall not cause the same to be given within double the time required for that purpose by the rules of the court in which the cause may be depending, it shall be lawful for the plaintiff to file common bail for the defendant and proceed to judgment in like manner as if special bail had been put in.

CHAP. 103.

AN ACT for the sale of a parsonage belonging to the Reformed Low Dutch Congregations in Queens county, and the disposition of the avails thereof.

PASSED the 31st of March, 1801.

Preamble.

WHEREAS, Thomas Smith of Jamaica in Queens county by an indenture bearing date the fourth day of September, one thousand seven hundred and forty one, did convey to Abraham Lent, John Wyckoff, Abraham Polhemus, Abraham Schenck, Adrian Onderdonk, Cornelius Rierson, Jacobus Montfoort, and Cornelius Hoogland jointly as agents and trustees for the Low Dutch congregations of Newton, Jamaica, Success, and Oyster Bay a house and lot of land at Jamaica aforesaid for the purpose of a parsonage; *And whereas* a majority of the elders and deacons of the said churches have by their petition to the legislature, prayed to be enabled by law to sell the said parsonage, for the purposes hereafter mentioned which petition having been published in the news paper printed at Brooklyn in Kings county for six weeks successively, agreeably to a concurrent resolution of the senate and assembly of the last session, as a notice to all concerned to appear at the present session and object to granting the prayer of the said petition, if the same be improper, and no objections being made thereto, and it appearing reasonable to grant the same: Therefore,

Persons
named au-
thorized to
sell certain
real estate.

Be it enacted by, the People of the State of New York, represented in Senate and Assembly, That full power and lawful authority are hereby given to Abraham Polhemus junior, Abraham Ditmar, Abraham Schenck and Jacob Van Wicklen or the major part of them to make sale of the said house and lot of land at public auction, at any time they or the major part of them shall judge proper, and to pay the money arising from such sale in the following manner, one fourth part thereof to the elders and deacons for the time being of the said church at Newtown, one other fourth part to the elders and deacons of the said church at Jamaica, one other fourth part thereof to the elders and deacons of the said church at Success, and one other fourth part thereof to the elders and deacons of the said church at Oysterbay, to be by them respectively

applied towards purchasing two parsonages and for no other purpose whatsoever, that is to say, the elders and deacons of Success and Oysterbay to purchase one parsonage for the said two congregations, and the elders and deacons of Newtown and Jamaica to purchase one parsonage for their said congregations; and it is hereby made the duty of the said Abraham Polhemus, Abraham Ditmarse, Abraham Schenck, and Jacob Van Wicklen, or such of them as make sale of the said parsonage, and their executors and administrators to account with the elders and deacons for the time being of the said four churches respectively for all the monies by them received by virtue of such sale at any time when by them thereunto required.

And whereas, Cornelius Hoogland one of the persons to whom the said parsonage was conveyed, was the last that survived of the said trustees, and departed this life between the year one thousand seven hundred and seventy six, and one thousand seven hundred and eighty, *and whereas* Tunis Hoogland, now of Oysterbay is the eldest son of the said Cornelius Hoogland; therefore,

Be it further enacted, That full power and lawful authority are hereby given to the said Tunis Hoogland to convey and alien in fee the said parsonage house, and premises when so sold as aforesaid to the purchaser or purchasers thereof; and such conveyance shall be good and effectual in law, to all intents and purposes whatever.

Power
granted to
Tunis
Hoogland.

CHAP. 104.

AN ACT relative to the Bank of New York.

PASSED the 31st of March, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That that part of the act entitled "An act to incorporate the stockholders of the Bank of New York," which declares, "that four of the directors who shall be chosen in any year, shall be ineligible for one year after the term for which they shall be chosen," be repealed.

Part of act
recited re-
pealed:

And be it further enacted That it shall be lawful for the treasurer of this State, to receive from the cashier of the said bank, at any time after the passing of this act, the bills of credit emitted in virtue of the act entitled "An act to take out of circulation the bills of credit emitted by law, and to emit others as a substitute, passed the 8th of February 1788," in part payment of the debt due from the said bank on the purchase of the stock of the United States, transferred in pursuance of the act entitled "An act to render the funds of this State more productive of revenue.

Certain
bills of
credit may
be received
by treas-
urer.

CHAP. 105.

AN ACT concerning judgments and executions.

PASSED the 31st of March, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That all and singular the lands, tenements, and real estate of every debtor shall be liable to be sold upon execution to

Sale of real
estate on
execution.

be issued by virtue of any judgment in any court of record, against such debtor for the payment and satisfaction of the debt or damages so to be recovered.

What to be entered in judgment-roll.

And be it further enacted, That every judge or officer of any court of record, who shall sign any judgment, shall at the time of signing the same, without any fee set down the day and year of his signing the same judgment, upon the margin of the roll or record where the same judgment shall be entered; and that the clerks of the said respective courts shall mark upon the back of every roll or judgment filed in their respective offices, the time of filing the same. *And further,* that no judgment shall affect any lands or tenements as to purchasers or mortgagees, or have any preference against heirs, executors or administrators, in their administration of their ancestor's, testator's or intestate's estates, but from the time of the actual filing of the roll or record of the same judgment in their respective offices, after the same shall have been signed as aforesaid.

Docket of judgments.

And be it further enacted, That the clerks of the several courts of record in this State, shall during every term or court, or within six days thereafter, make and put into an alphabetical docket, by the name of the party against whom any judgment shall be entered, a particular entry of all final judgments for debt or damages entered in the said courts respectively, of such terms, or at the court preceding, which shall contain the names of the parties, their places of abode, and title, trade or profession, if any such be in the record of such judgment, and the debt, damages and costs recovered thereby: And the said respective dockets shall be fairly put into and kept in books in the office of said clerks respectively, which may be searched by all persons at reasonable times, and every clerk for every term or court in which he shall omit to do his duty in the premises, shall forfeit the sum of two hundred and fifty dollars, the one moiety thereof to the party grieved, and the other moiety to the person, who will sue for the same, to be recovered with costs of suit, in any court of record by action of debt or by information. *And further* that no judgment not docketed and entered in the books as aforesaid, shall affect any lands or tenements, as to purchasers or mortgagees, or have any preference against heirs, executors or administrators, in their administration of their ancestor's, testator's or intestate's estates.

Effect of recognizances.

And be it further enacted, That no recognizance hereafter taken, shall bind any lands, tenements or hereditaments, in the hands of any purchaser or mortgagee, bona fide, and for valuable consideration.

Transcripts of judgments in supreme court.

And be it further enacted, That the clerks of the supreme court shall respectively deliver each to the other on or before the last day of every term, at the place where the supreme court shall then be held, a transcript of the docket of all judgments that shall have been docketed in his office as aforesaid during the preceding term and vacation, and before the first day of the term in which such transcript shall be delivered, which transcript shall be certified by the clerk in whose office it shall be made to be a true copy of the original docket in his office, and shall be entered in a book in the office of the clerk receiving the same, as part of the docket of judgments, and which book shall be provided for that purpose by each of the said clerks in his office.

Judgment not to be entered by confession of attorney.

And be it further enacted, That no judgment shall be entered upon any bond or other contract in writing hereafter to be made upon the confession of any attorney, by virtue of any authority whatsoever contained in the same instrument, paper or parchment with such bond or contract and no judgment shall be entered upon any confession taken

out of court before any judge of any court of common pleas or mayors court, and if any judgment shall be so entered, the same shall be void.

And be it further enacted, That no writ of execution shall bind the property of the goods of any person against whom such writ shall be issued, but from the time that such writ shall be delivered to the sheriff, under-sheriff, coroner or other officer to be executed: And for the better manifestation of the said time, the sheriff, under-sheriff, coroners and other officers, their deputies and agents, shall upon the receipt of every such writ, without fee for doing the same, indorse upon the back thereof the day of the month and year when he or they received the same.

When execution to bind property.

And be it further enacted, That where any debt shall be recovered or acknowledged, or damages adjudged in any court of record, it shall be lawful for the party in whose favor such judgment shall be given, to have an execution against the body of such debtor, or a writ commanding the sheriff or other proper officer to cause such debt and damages to be made of the goods and chattels of the party chargeable with such debt in the usual form, or of the goods and chattels, lands and tenements of the person chargeable with such debt, in the form herein after mentioned; but no execution shall be issued against the body, or the proper goods and chattels, lands and tenements of any heir, devisee, executor or administrator, unless such person shall have made his estate liable to the same debt, by false pleading or otherwise.

Body executions.

And be it further enacted, That in every writ of execution hereafter to be issued against lands and tenements, the sheriff or other officer to whom such writ shall be directed, shall be commanded, that of the goods and chattels of the person or persons against whom such execution shall issue in his county, he cause to be made the debt, damages and costs, or sum of money in such execution specified; and if sufficient goods and chattels of such person or persons cannot be found in his county, that then he cause the said debt, damages and costs, or sum of money, to be made of the lands and tenements whereof such person or persons was or were seized, on the day when the same lands became liable to such debt, damages, or sum of money, specifying the day particularly, or at any time afterwards, in whose hands soever the same may then be. But when any such execution shall be issued, against any person or persons, as tenants, or as heirs or devisees of any person deceased, unless they shall have made their estate liable by false pleading or otherwise, such writ shall only command the sheriff or other officer to whom the same shall be directed, that of the lands and tenements, whereof the ancestor, testator, or person deceased, was seized on the day the same lands became liable as aforesaid, or at any time afterwards, or at the time of his or her death as the case may require, he cause to be made the debt, damages and costs, or sum of money in the same writ specified.

Contents of execution against property.

And be it further enacted, That where lands or tenements in the hands of several persons shall be liable to satisfy any judgment, or debt of record, and the whole, or more than a due proportion shall be paid by or levied upon the lands of any one or more of them, the person or persons so aggrieved his or their executors or administrators, may have a writ out of chancery, setting forth his or their grievance, directed to the justices of the supreme court, commanding them to hear the complaint, and to do justice to the parties: And the justices of the supreme court shall thereupon cause the party or parties, against whom such complaint shall be made, to be warned to be before them at a certain day to shew if he or they have any thing to say, why his or their lands should

Where execution levied on lands of one of several joint debtors.

not be charged with a due proportion of the monies so paid or levied; and if he or they do not come at the day, or do come and can say nothing why his or their lands should not be charged with a due proportion of the monies so paid or levied, then the sheriff of each county in which such lands and tenements so chargeable shall be situated, shall be commanded, that by the oath of twelve good and lawful men of his county, he diligently inquire, what was the true value of the lands and tenements in the hands of each of the parties respectively, in his county so chargeable at the time they became chargeable as aforesaid; and that he send the inquisition which he shall take thereof before the same justices, at a certain day, under his seal, and the seals of those by whose oath he shall take such inquisition; and when the value of the whole lands and tenements so chargeable shall be found, the justices shall apportion the money so paid or levied, together with the plaintiff's damages and costs of suit, among the several holders of the said lands and tenements so chargeable, according to equity and justice; and shall cause so much as each person ought to pay to be levied of the said lands and tenements, so held by him or her, and to be paid to the plaintiff. *And further*, if any purchaser of any lands or tenements upon any execution, or his heirs or assigns shall be evicted on account of any irregularity in the proceedings, or want of title in the person or persons against whom such execution issued, or by reason of any prior incumbrance in every such case the person or persons so evicted, his or their executors or administrators, may have a writ out of the chancery, setting forth his or their grievance, directed to the justices of the supreme court, commanding them to hear the complaint, and to do justice to the parties, and the justices of the supreme court shall thereupon cause as well the party or parties at whose suit, or for whose benefit the same lands and tenements were sold, as the party against whom the execution issued, or their respective heirs, devisees, executors or administrators, to be warned to be before them at a certain day, to shew if they or either of them, have any thing to say, why the plaintiff should not be restored to the monies paid for the said lands and tenements; and if they do not come at the day, or do come and say nothing why the plaintiff should not have restitution of the said monies, the plaintiff shall have judgment and execution for the same, together with his costs of suit, against him, or them who ought to repay the same, and the party in whose favor such former judgment was had, or his heirs, devisees, executors, or administrators who may be charged by such judgment of restitution, shall thereupon have such further judgment and execution, as justice shall require.

Issuance of
execution
after death
of judgment
creditor.

And be it further enacted, That the party at whose suit any person shall stand charged in execution for any debt or damages recovered, his executors or administrators may after the death of the said person so charged and dying in execution, have new execution against the goods and chattels, lands and tenements or any of them of the person so deceased, in the same manner as such party might have had, if the person so deceased had never been charged in execution; but no such new execution shall be against any lands, tenements, or hereditaments, which shall at any time after the judgment against such person so dying, and by reason whereof such person so dying was charged in execution have been sold bona fide by such person for the payment of any of his creditors, and the money which shall be paid, for the lands so sold, either paid or secured to be paid to any of his creditors with their privy & consent in discharge of his debts or of some part thereof; nor against any lands tenements or hereditaments, of any such person so dying in execu-

tion, which shall have been sold by reason of any other judgment against such person.

And be it further enacted, That no lands or tenements shall be sold by virtue of any execution aforesaid, unless such sale be at public vendue, and between the hours of nine in the morning and the setting of the sun of the same day, nor unless the time and place of holding such sale shall have been previously advertised publicly, for the space of six weeks successively, by nailing up a printed or written notice thereof, in at least three of the most public places within the town where such lands or tenements shall be sold, and also by causing a similar notice thereof to be printed in one of the public newspapers, if any such paper there be, within the county wherein such lands and tenements shall be sold. And if any sheriff shall sell any lands or tenements by virtue of any such execution, otherwise than in the manner aforesaid, or without such previous notice, or if any person shall take down or deface any such notice previous to the day of sale therein specified, unless upon satisfaction of the judgment on which such execution issued, or with the consent of the plaintiff therein, the sheriff so offending, shall for every such offence forfeit and pay the sum of one thousand two hundred and fifty dollars; and every person so offending by taking down or defacing such notice shall forfeit and pay the sum of thirty seven dollars and fifty cents, to be respectively recovered with costs of suit by any person who will sue for the same; which sum or sums when recovered shall be for the use of the person so prosecuting for the same; *provided however,* that no such offence shall be deemed to affect the validity of any such sale.

Sale of
lands
under exe-
c

And be it further enacted, That it shall not be lawful for any sheriff or other officer, to whom any such execution shall be directed, or any of their deputies, or any person for them or either of them, to purchase any goods or chattels, lands or tenements at any sale by virtue of any execution, and all purchases so made by them or any of them, or for the use of them, or any of them, shall be void.

Sheriff not
to pur-
chase
property.

CHAP. 106.

AN ACT to regulate the ferry and rates of ferriage between the city of New York, and the island of Nassau.

PASSED the 2nd of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the rates or prices for carrying men, women, horses, cattle, grain, and all other goods, merchandize and things whatsoever, in the ferry boats from the city of New York to the island of Nassau, or from the island of Nassau to the said city of New York shall be as follows; that is to say,

Ferry rates
between
New York
and Nassau
island.

For every horse mare or gelding, with or without a saddle twelve and an half cents, —

Every ox fifteen and an half cents, and other neat cattle twelve and an half cents each. —

For every live calf, hog or sheep three cents, and for every lamb, two cents,

Every hundred weight of butter, cheese hogs lard, hams, tallow or bacon three cents;

Every hundred weight of bar iron, nail rods, nails, steel, shot, painters colors, lead, pewter, rice, sugar, copperas, allum, brimstone, dyewood or any other kind of grocery, commonly sold by the hundred three cents.

Every hundred weight of copper, brass or iron hollow ware, six cents.

Every hundred weight of gunpowder six cents.

Every hundred weight of beef in quarters two cents.

Every hundred weight of beaver, raccoon skins, or coats, or other furs, four cents.

Every bushel of salt, wheat, rye, Indian corn, buck wheat, flax seed, or any other article of grain, commonly sold by the bushel, an half cent.—

Every bushel of apples, pears, peaches, potatoes, turnips, walnuts, green beans, and peas, and every other article, sold by the bushel, heaped measure an half cent. —

Every hundred of sheeps head, shad or bass, twelve and an half cents. —

Every hundred peach, three cents,

Every bag, full of flour, meal or bread, not exceeding two bushels one cent.

Every barrel of wheat or flour rye or Indian meal three cents.

Every barrel of bread, two cents. —

Every hogshead or pipe of wine, rum, brandy or molasses, containing one hundred and twenty gallons, thirty seven and an half cents, and in that proportion for casks of a greater or less size. —

Every barrel of soap, six cents. —

Every hogshead of cyder, twenty cents. —

Every barrel of cyder, six cents. —

Every barrel of beef or pork, six cents. —

Every empty pipe or hogshead, six cents. —

Every empty tight barrel, two cents. —

Every empty flour cask, one cent. —

Every turkey, goose, brandt or other wild or tame fowl, one quarter of a cent.

Every dozen of small birds, one quarter of a cent. —

Every hundred eggs, two eggs. —*

Every coach, eighty cents. —

Every phaeton, fifty five cents.

Every one horse chaise, thirty one cents. —

Every riding chair or gig, twenty five cents.

Every sulkey, twenty cents.

Every waggon thirty seven and an half cents. —

Every double sleigh twenty cents.

Every single sleigh, fifteen and an half cents. —

Every pair of cart wheels, twelve and an half cents.

Every pair of chair or waggon wheels six cents. —

Every thousand three feet shingles, fifty cents. —

Every thousand shingles from twenty four, to twenty seven inches in length, thirty one cents. —

Every thousand shingles from eighteen to twenty two inches in length, twenty five cents.

Every thousand feet of joice or scantling, thirty one cents.

For every board of one inch thick, twelve inches wide and fourteen feet in length three quarters of a cent, and in that proportion for boards and plank of different lengths and thickness.—

Every hundred lath for shingling twenty five cents.

* So in original.

Every thousand of cedar or pine lath for cieling, twelve and an half cents.

Every cedar bolt, one cent.

Every hundred feet of window glass, three cents. —

Every tierce of lime, twelve and an half cents.

Every bushel of loose lime, two cents. —

For every thousand of brick, twenty five cents.

Every full trunk or chest nine cents.

Every empty trunk or chest, four cents.

Every case with full bottles, four cents, and if empty two cents.

Every dozen wool or cotton cards, two cents,

Every dozen of windsor or other sitting chairs, twelve and an half cents. —

Every hundred weight of cotton or sheeps wool, six cents. —

Every cupboard or case of drawers, twenty five cents.

Every writing or other desk, nineteen cents. —

Every dozen scythes, two cents.

Every corn fan, one cent.

Every piece of oznaburghs or duck, two cents. .

Every piece of blankets, duffels, coatings or frize, four cents. —

Every piece of broad cloth, serge, shrouds, flannel, half thicks or drugget, two cents.

Every piece of duroy, calimancoes, shalloon or linnen, one cent.

Every dozen of men's or boy's hats one cent.

Every man or woman's saddle, one cent.

Every pair of blankets, one cent. —

Every rug, one cent.

Every dozen of spades or shovels, two cents. —

Every looking glass, two cents.

Every dozen of frying pans, two cents.

Every empty firkin or pail, one quarter of a cent. —

Every empty two bushel basket, one quarter of a cent, and smaller in proportion.

Every dozen of empty bags, one half cent.

Every side of sole leather, one cent. —

Every side of upper leather, one half cent. —

Every calf skin, one quarter of a cent. —

Every beef's hide, two cents. —

Every barrel of tar, pitch, turpentine or rosin, six cents. —

Every hundred weight of cordage, three cents. —

Every coach body, twenty five cents. —

Every chaise, chair or sulkey body, nine cents. —

Every passenger, two cents. —

And wherever a certain rate of ferriage is fixed for any particular quantity or weight of goods or merchandise a proportionable rate shall be taken for any greater or less quantity or weight of the same goods, *provided always*, that no ferriage shall be paid for a sucking child, or for such small articles not before enumerated, as a woman carries in her apron, or a man or boy in his hand or under his arm. —

And be it further enacted, That the ferriage of all other goods merchandise and things whatsoever not specified in this act, from the city of New York, to the island of Nassau, or from the island of Nassau to the city of New York shall be paid according to the rates above specified in proportion to the weight or quantity transported and not otherwise; and if any person shall refuse to pay to the ferryman, the rates and prices of ferriage established by this act the person so refusing shall

Other
goods; re-
fusal to
pay; dis-
putes.

forfeit and pay to such ferryman, treble the rate to which such person was liable by this act; to be recovered with costs of suit in any court having cognizance thereof; and if any disputes shall arise concerning the rates or prices of ferriage for any goods or commodities not particularly expressed in this act, and the matter be brought before any justice of the peace by the contending parties, such justice shall hear and determine the same, so as to him shall appear to be conformable to the true intent and meaning of this act, and shall award costs against the party in default.—

Right of
city to
maintain
ferries.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty to demand and receive the rates and prices of ferriage aforesaid for the said ferriage from and to the said city as aforesaid, and may establish and keep one or more ferries between the said city and the island of Nassau as aforesaid.—

Penalty for
exacting
illegal
charges.

And be it further enacted, That if any ferryman or his servant shall ask, demand or take any greater or other rates for ferriage from the said city of New York to the island of Nassau or from the said island of Nassau to the said city of New York, than are herein before established the person so offending shall for every offence forfeit and pay the sum of two dollars and fifty cents.—

Rates to be
posted.

And be it further enacted, That every ferryman shall paste upon a board and hang up in the porch of each respective ferry house or at the most public place therein, a table fairly written or printed of the rates or prices of ferriage as established by this act; and in case any ferryman shall neglect or refuse to hang up such table of rates and prices of ferriage in manner aforesaid he shall for every day he shall so neglect or refuse to do the same, forfeit the sum of two dollars and fifty cents.—

Conditions
to be ful-
filled by
ferryman.

And be it further enacted, That the ferryman shall always have one or more boats ready on each side of the river at least one half hour before sunrise, and so shall continue through the whole day until eight o'clock in the evening for the purpose of transporting passengers, and their effects; and any ferryman who shall neglect to have his boat or boats ready on each side of the river to carry over passengers, or their effects, at such time and times, (wind and weather permitting) every such ferryman so neglecting, shall forfeit and pay for every such neglect, the sum of one dollar and twenty five cents to the person so detained, to be recovered in any court having cognizance thereof, and every ferryman who shall neglect or refuse to come and go with the ferry boats wind and weather permitting to and from such places in the said city as now are or hereafter shall be appointed for landing places by the mayor, aldermen and commonalty of the said city shall for every such offence, forfeit two dollars and fifty cents, to be recovered before any court having cognizance thereof, by any person who will sue for the same and paid to the chamberlain of the said city towards defraying the public charges thereof.

Privileges
of inhabit-
ants of
Brooklyn.

And be it further enacted, That it shall be lawful for any of the inhabitants of the town of Brooklyn to transport their own goods in their own boats, from the island of Nassau to the city of New York and from the city of New York to the island of Nassau without paying any ferriage for the same. *Provided however* that if any such inhabitant under colour or pretext of transporting his or her own goods only shall carry or bring over the said ferry the goods of any other person of what kind soever with or without hire or reward every such inhabitant shall for every such offence forfeit and pay to the ferryman of such ferry two dollars and fifty cents to be recovered with costs of suit before any justice of the peace or court having cognizance thereof.—

And be it further enacted, That no person other than the said mayor, **aldermen** and commonalty shall erect or keep a ferry between the said city and Nassau island for carrying or bringing of any passengers, horses, cattle, hogs, sheep, goods, merchandize or other things whatsoever, over the said ferry hereby rated with or without any hire or reward under the penalty of one hundred and twenty five dollars for every such offence.

Penalty
for illegally
maintain-
ing ferries.

And be it further enacted, That all the penalties and forfeitures imposed by this act except where the same is herein before otherwise appropriated, may be recovered with costs of suit in any court having cognizance thereof by any person who will sue for the same to effect, the one moiety thereof when recovered to be paid to the overseers of the poor of the city or town where the same shall be recovered for the use of the poor thereof, and the other moiety to the person who will sue for the same.

How penal-
ties recov-
ered.

CHAP. 107.

AN ACT to vest certain powers in the freeholders and inhabitants of the villages of Troy and Lansingburgh.

PASSED the 2nd of April, 1801.

I. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That the district of country contained within the following bounds, to wit, beginning at a point in the division line between the counties of Albany and Rensselaer, opposite the mouth of the creek on which John D. Van Der Heyden's mill now stands, from thence running on a line due east to the foot of the first range of hills, thence northerly on a line along the foot of the said first range of hills, until said line strikes the north bounds of the farm* of Cornelius Lansing, and on which the said Cornelius Lansing now lives, thence westerly along the north bounds of the said farm, to the division line between the counties of Rensselaer and Saratoga, thence along the westerly line of the said county of Rensselaer to the place of beginning, shall continue to be known and distinguished by the name of the village of Lansingburgh; and the freeholders who may from time to time reside within the aforesaid limits, shall annually on the third Tuesday of May, meet at some proper place, by the trustees of the said village to be appointed and notified to the inhabitants thereof at least one week previous thereto, and then and there choose five discreet freeholders, resident within said village, to be trustees thereof and the trustees for the time being, shall preside at such meeting, and shall declare the several persons having a majority of votes as duly chosen trustees.

Lansing-
burgh,
what to
constitute
village of.

II. *And be it further enacted,* That all the freeholders residing within the aforesaid limits, are hereby constituted and declared to be a body politic and corporate, by the name of "The Trustees of the Village of Lansingburgh," and by that name they and their successors, may have perpetual succession, and be persons in law capable of suing and being sued, and of defending in all courts and places whatsoever, in all manner of actions and causes whatsoever, and they and their successors may have a common seal and may alter the same at pleasure, and shall be in law capable of purchasing holding and conveying any estate, real or personal, for the public use of said village, and of erecting public build-

Powers
and privi-
leges of
free-
holders.

* So in original.

ings, such as fire engine houses, school houses, market houses, of raising money by tax for erecting those public buildings or making any other necessary improvements, which money so to be raised shall be assessed upon the freeholders and inhabitants of said village, in proportion to their property, by three judicious assessors to be by the freeholders and inhabitants of said village, qualified to vote at town meetings, chosen at their annual meetings, and collected by the collector of the corporation in the same manner as the taxes of the county of Rensselaer are collected, by virtue of a warrant to him directed signed by a majority of the trustees: *Provided nevertheless*, that no tax shall be levied or monies raised, assessed or collected for erecting public buildings or making any other necessary improvement, nor any purchase or sale of any real estate be made, nor any public building erected or disposed of without the consent of the freeholders and other legal voters of the said village, or the major part thereof to be given at a public meeting duly notified.

Village or
dinances.

III. *And be it further enacted*, That it shall be lawful for the said trustees or the major part or them, and their successors, to make and publish such prudential rules and regulations, as they from time to time shall deem meet, relative to public markets within the said village, relative to the streets, alleys and highways of said village, and to draining, filling up, paving, keeping in order and improving the same, relative to slaughter houses and nuisances generally, relative to the establishing, regulating and ordering their fire company, and ordering and procuring fire buckets, fire utensils, and guarding against fire generally, relative to a town watch and lighting the streets of said village, relative to the number of taverns and inns to be licensed, relative to the restraining geese swine or cattle of any kind, relative to the better improving their common lands, and relative to any thing whatsoever that may concern the police and good government of the said village; but no such bye laws shall extend to the regulating or ascertaining the prices of any commodity or articles of provision, that may be offered for sale: *Provided also*, that such bye-laws shall not be inconsistent with the laws of this State or of the United States; and the said trustees or the major part of them, as often as they shall make and publish any such bye laws for the purposes aforesaid, may make and provide such reasonable fines against the offenders of such laws, as they may think proper, not exceeding twenty five dollars for any one offence, to be prosecuted and recovered before any justice of the peace, or court of record having cognizance of the same, by and for the use of the trustees of the said village of Lansingburgh.—

Village
officers.

IV. *And be it further enacted*, That the said freeholders and inhabitants, qualified to vote as aforesaid at their annual meetings, to be held for choosing trustees, or at any other meeting duly notified, are hereby authorised to choose three inhabitants being freeholders, as assessors, one treasurer, one collector, and as many fire wardens, as the trustees or the major part thereof may direct.

Oaths of
officers.

V. *And be it further enacted*, That the treasurer, collector assessors and fire wardens, shall after such election, and before they proceed to the exercise of their several offices respectively, take and subscribe an oath or affirmation before any justice of the peace of the county of Rensselaer, for the faithful execution of the office to which they may be severally chosen.

Bonds to
be given.

VI. *And be it further enacted*, That the treasurer and collector hereafter to be elected, shall before they enter upon the execution of their respective offices, give such security for the faithful performance of the

trusts reposed in them, as the major part of the trustees shall deem sufficient.—

VII. *And be it further enacted*, That if any of the said inhabitants, qualified as aforesaid, shall hereafter be chosen trustee or to the office of assessor, or fire warden, and having notice of his said election, shall refuse or neglect to take upon him such office, it shall then be lawful for the trustees or the major part of them, to impose upon every such person, such reasonable fine or sum of money, as they may think fit, so as such fine for each refusal or neglect, shall not exceed the sum of twenty five dollars; all which fines shall be recovered by action of debt, before any justice of the peace, or court having cognizance of the same, to be prosecuted and recovered by and to the use of the said trustees, freeholders and inhabitants of said village of Lansingburgh.

Penalty for refusal to discharge office.

VIII. *And be it further enacted*, That the trustees or the major part of them within five days after their being elected in every year hereafter, shall assemble and appoint some one suitable person of their body to be president of the said board of trustees, whose duty it shall be, when present, to preside at the meeting of the trustees, to order extraordinary meetings of the trustees, whenever he may find it for the interest of the village so to do, to receive complaints of the breach of any of the bye laws, to see that all the rules and ordinances, are faithfully executed and prosecute, in the name of the trustees, all offenders against such bye-laws; to receive and lay before the trustees the returns of the fire wardens, and with consent of the major part of the trustees, to appoint, under his hand and the seal of the said village, the company of firemen, to inspect the utensils belonging to the said village for extinguishing fires, and particularly to see the engines and fire utensils, engine houses and all other public property belonging to said village, suitably and properly kept, and to do all such other acts and things as may be proper for him to do as president of the board of trustees.

President of the board.

IX. *And be it further enacted*, That the collector, treasurer and assessors, shall be paid for their services, such compensation as the said freeholders and inhabitants, or a majority of them at their annual meetings, shall deem reasonable and proper.—

Compensation of officers.

X. *And be it further enacted*, That the district of country contained within the following bounds, to wit, beginning on the north side of a certain creek called Poesten creek, where there was formerly a saw mill, fifty eight chains from Hudson's river, and runs from thence down along the said creek to the said river, thence up along the said river to a small creek called the Meadow creek, thence along the said creek into the woods, south seventy degrees easterly, forty chains, thence south twenty three degrees and thirty minutes westerly, along the west side of the land of the late Albert Bradtt, one hundred and six chains, to the place of beginning (the above courses to be run as the magnetic needle pointed in the year one thousand seven hundred and twenty) shall continue to be known and distinguished by the name of the village of Troy; and that the freeholders and inhabitants who may from time to time reside in the said village, shall be a corporation by the name and style of "The Trustees of the Village of Troy" and shall have the same rights, privileges, powers and immunities as by this act are given to the corporation of the village of Lansingburgh, subject however to the same regulations, restrictions orders and provisions.—

Village of Troy, bounds of.

XI. *And be it further enacted*, That the firemen, appointed or to be appointed within the said corporations, shall be exempted from serving as jurymen, or in the militia, except in cases of actual invasion or insur-

Firemen.

rection; *provided* that the number of firemen in each village do not* exceed twenty; *and provided further*, that it shall not be lawful for the trustees of the village of Lansingburgh, to purchase or hold any real estate not lying or being within the limits of the patent of Stone Arabia or village of Lansingburgh, nor for the trustees of the village of Troy, to purchase or hold any real estate not being within the limits of their corporation.

CHAP. 108.

AN ACT to vest certain powers in the freeholders and inhabitants of part of the town of Brooklyn in Kings county.—

PASSED the 2d of April, 1801.

Brooklyn,
village of;
bounds;
firemen.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the freeholders and inhabitants of the town of Brooklyn, in Kings county, having a right to vote at town meetings and residing near the ferry, within a line to begin at the East river opposite to and to be drawn up the road that leads from the still house, late the property of Philip Livingston, deceased and including the same still house and the other buildings on the south side of the same road, to and across the road leading from Bedford, south of the house now or late of John B. Johnson, and from thence, northeasterly, including all the houses on the east side of the road last mentioned, to and including the house and mills of John Jackson at the East river aforesaid; and from thence down the East river to the place of beginning, to assemble together on the second Tuesday in May in every year at such place as shall have been agreed on by a majority of votes at their last meeting, and then and there by a majority of the votes of those so met, and having a right to vote, choose so many able bodied and discreet men residing within the limits aforesaid, as a majority of those so met shall think proper, not exceeding thirty in the whole, to have the custody, care and management of the fire engine or engines, and the other tools and instruments for extinguishing fires within the limits aforesaid; and all or any of the persons so by them to be chosen from time to time at any such meeting, to remove and to elect others in their stead as aforesaid; and the persons so to be chosen, shall be called, "the Firemen of Brooklyn" and shall be ready at all times, as well by night as by day, to manage, work and exercise the fire engines, and other tools or instruments aforesaid; and shall be subject to such rules, and regulations as the freeholders and inhabitants, residing within the said district, and having a right to vote as aforesaid, shall at such meeting, from time to time, make and establish for the better government of the said firemen; and likewise at every such meeting to choose in manner aforesaid a proper person, residing within the said district to be their clerk, whose duty it shall be to enter all the names of such persons, chosen firemen as aforesaid, in a book to be by him provided and kept for that purpose; and to make an entry of all the proceedings in the said book at every such meeting; and likewise that a majority of the freeholders and inhabitants at their meetings as aforesaid are hereby empowered to require the inhabitants and owners of houses, to provide themselves with such and so many fire buckets, to be ready in their respective houses, for the purpose of extinguishing fires, which may hap-

* So in original.

pen in the said district, and to impose such reasonable fines and penalties for every neglect, default or disobedience of such rules and regulations or deficiency of buckets as a majority of the said freeholders at their said meetings as aforesaid shall think proper: Which fines, penalties, and forfeitures, shall be recovered before any justice of the peace in and for the said county by the said clerk, in an action of debt, with costs in his own name, and when recovered shall be applied towards keeping in repair the said fire engines and tools thereunto belonging.

And be it further enacted, That every person so to be chosen a fireman, shall during his continuing as a fireman and no longer be exempted from serving in the office of overseer of the highways or constable and from being impannelled on any jury or inquest, and from militia duty, except in cases of invasion or other imminent danger, and a certificate from the clerk aforesaid, shall be sufficient evidence of such exemption. Exemptions.

And be it further enacted, That it shall be lawful for the said freeholders and inhabitants or a majority of them, so entitled to vote as aforesaid, at any such meeting, to direct such sums of money as they shall deem necessary and proper for repairing the fire engines and other instruments for extinguishing fires now provided or hereafter to be provided within the said district, to be raised, levied and collected from the freeholders and inhabitants residing within the said district, at the same time and in the same manner as the monies for the maintenance of the poor within the town of Brooklyn, are by law directed to be raised and collected, and agreeable to the assessors' tax-lists in the said town and the said monies when collected shall be paid to the said clerk, to be by him applied for the purposes aforesaid at such time and in such manner, as the major part of such firemen shall from time to time direct. Monies may be raised for fire department.

And be it further enacted, That it shall be lawful for the said freeholders and inhabitants at their annual meetings aforesaid, to choose in like manner as the said firemen are chosen, not less than three nor more than five discreet freeholders, residing within the limits aforesaid who may from time to time make such prudential rules and regulations as they shall judge necessary for the prevention of fires, by the burning of chimnies, and for the sweeping or otherwise cleaning of the same under such penalties as they or a majority of them shall deem expedient, not exceeding the sum of five dollars for any one offence, to be recovered before any court having cognizance of the same, with costs of suit in an action of debt by any one of the freeholders, so to be chosen as aforesaid, which sum when recovered shall be applied by the said freeholders for the defraying of the expence of providing lamps for lighting the streets in the said town. *Provided always* that such rules and regulations, shall be recorded by the said clerk, and advertised by the said freeholders in at least three public places, within the limits aforesaid eight days before any person shall be liable to such penalties. Freeholders to be chosen at annual meetings; duty of.

And be it further enacted That no baker or other person, within the limits aforesaid, shall sell any bread at any higher price or rate than bread of the like quality at the time of such sale, shall be assized in and for the city of New York by the corporation of the said city under the penalty of one dollar for every offence to be recovered by the overseers of the poor of the said town of Brooklyn, in any court having cognizance of the same, in an action of debt with costs of suit, for the use of the poor of the said town. Bakers, price of bread limited.

And be it further enacted, That all copies and abstracts of records taken from the records of the said county, relative to roads and highways in the said town of Brooklyn, examined and certified to be true copies by the clerk of the said county and registered by the clerk of Records of highways.

the said town in a book to be provided by him for that purpose, shall be deemed to be the records of the said town, and of the same validity as the original records, remaining in the office of the clerk of the said county.—

CHAP. 109.

AN ACT to preserve the grass and timber on certain beaches and islands in the county of Suffolk.

PASSED the 2d of April, 1801.

Penalty for
firing grass
or timber
on certain
beaches
and
islands.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That if any person shall set fire to, or burn the old grass, or cut any of the timber on any of the beaches or islands lying between Mastic West inlet and Long Cove, in the town of Brookhaven, every such person shall forfeit and pay for every such offence twelve dollars and fifty cents with costs, to any person who will sue for and recover the same before any justice of the peace, to his own proper use. And if any sheep or hogs shall be suffered to run or feed on any of the said beaches or islands it shall be lawful for any person to take and keep such sheep or hogs as his own absolute property.

Horses
or cattle
found at
large on
beaches or
islands.

And be it further enacted, That if any horses or neat cattle shall be found on the aforesaid beach or islands, the owner or owners thereof shall forfeit and pay to any person who shall take and keep the same five dollars for each horse or neat beast so found, and in case no person shall appear and pay the said sum within forty eight hours after such horses or neat cattle shall be so taken, the person taking the same shall advertise them in two or more public places in the town of Brookhaven, at least six days; and at the expiration thereof shall sell the same at public vendue, and out of the monies arising therefrom, may retain in his hands five dollars with the cost not exceeding seventy five cents, and shall return the overplus money if any there be, to the owner or owners thereof: *Provided* that nothing in this act contained shall be construed so as to prevent any person or persons from carrying on, using and feeding so many oxen and horses on the said beach or islands as shall be necessary for carting and stacking their hay during the proper season of getting and securing thereof,—

CHAP. 110.

AN ACT concerning the mayors courts of the several cities and the courts of common pleas and general sessions of the peace in the several counties of this State.—

PASSED the 2d of April, 1801.

Mayor's
courts in
New York
and Albany.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the mayor, recorder and aldermen of the city of New York, and the mayor, recorder and aldermen of the city of Albany, or the mayor and recorder of the said respective cities jointly, or either of them singly, with or without the presence of any of the aldermen of the said respective cities shall have power to hold the courts of common pleas called the mayors courts of the said cities respectively,

any law, charter or usage to the contrary notwithstanding, *provided* that nothing herein contained shall be construed to preclude any of the aldermen of the said cities respectively from sitting as judges of the said respective courts, and in case of the sickness, death or absence of the mayor and recorder of the said city of Albany it shall be lawful for any three of the aldermen of said city to hold the said mayors court of the city of Albany. —

And be it further enacted, That the said mayors court of the city of Albany shall be held on the first Tuesday of every month and that the terms thereof shall be and hereby are extended to three days inclusive, and the terms of the said mayors court of the city of New York to five days inclusive. —

Length of terms.

And be it further enacted, That in the records process and proceedings of the mayors courts of the cities of New York, Albany and Hudson "Judges of the said court" shall be inserted instead of the Mayor, recorder and aldermen of the said cities and all writs and process issuing out of or returnable into the same courts shall be made returnable before the judges of the same courts respectively and all writs directed to the same courts shall be directed to the judges of the court of common pleas called the mayor's court in and for the city of New York or the city of Albany or the city of Hudson, as the case may be.

Wording of writs.

And be it further enacted, That the mayor, recorder and aldermen of the said city of New York or any three of them, of whom the mayor or recorder always shall be one, shall have power to hold courts of general or special sessions of the peace in the said city and county. *And further*, that such courts of general sessions shall be held on the first Tuesdays in June, August, October, December, February and April in every year and at no other times, and may continue and be held every day (Sunday excepted) until the several Tuesdays next following inclusive; and such courts of special sessions may be held at any times that the said mayor, aldermen and commonalty, in common council convened, shall direct, and may continue to sit as many days (Sundays excepted) as the said court shall think proper for the dispatch of business, and either with or without a grand jury, as the said mayor, aldermen and commonalty, convened as aforesaid, shall direct, and shall possess the same powers and jurisdiction in every respect as the said courts of general sessions of the peace, and if the supreme court of judicature of this State, or any court of oyer and terminer or gaol delivery shall at any time be held in the said city during the continuance of the said courts of sessions, or any of them, it shall nevertheless be lawful for the said courts of sessions, by the oath of good and lawful men to inquire of, hear and determine all felonies and offences committed in the said city and county, in the same manner as if the said supreme court, or court of oyer and terminer, or of gaol delivery, were not then held in the said city and county.

Courts of general and special sessions in New York city.

And be it further enacted, That the mayor, recorder and alderman of the city of Hudson, or any three of them, of whom the mayor or recorder shall always be one, shall have power to hold a court of common pleas within the said city to be called the mayors court of the said city on the first Tuesday of every month and that each of the terms of the said court may continue to be held two days inclusive. And in case of the death, sickness or absence of the mayor and recorder of the said city of Hudson, it shall be lawful for any three of the aldermen of the said city to hold the said court therein. —

Mayor's court in Hudson.

And be it further enacted, That the judges and assistant justices of each of the other counties of this State, or any three of them, of whom

Courts of common pleas in

put or leave in any of them any unnecessary obstruction without leave of the said commissioners; or if any person shall leave the carcase of any beast, or any broken carriage in any road or highway, for any longer time than may be necessary to remove the same, or set up in or near any road or highway, any thing by which horses are usually affrighted, or shall by any improper behaviour affright any horse or traveller on any road or highway, every such person shall for every such offence, forfeit and pay, to the overseer of the highways of the district where the offence shall be committed, the sum of five dollars, to be recovered by the said overseer of the highways, with costs of suit, by action of debt, before any court having cognizance thereof, and when recovered shall be applied to the repairing and improving the roads or highways, within such district in such manner as the overseer of the highways shall think best.—

Passing of
wagons
and sleighs.

XV. *And be it further enacted*, That in all cases of persons, meeting each other in carriages, waggons, carts, or sleighs on any road or highway in Kings county and all roads westward of the west end of Hempstead plains and westward of the town and village of Hempstead or on the main road to the westward of the great plains, in Queens county, those who are not going towards the city of New York, shall give way to such as are going towards the said city, under the penalty of five dollars for every offence, to be recovered with costs of suit, by any person who will sue for the same, before any justice of the peace of the county where the offence is committed; the one half of which penalty shall be for the use of the person, who shall prosecute for the same with effect, and the other half thereof shall be paid to the commissioners of the highways of the town where the offence was committed and be by them applied towards the repair of the highways in the same town.—

Records to
be evi-
dence.

XVI. *And be it further enacted*, That where any highway has been laid out by commissioners of any of the said counties, and entered in the records of said county or of any town, such record shall be good and lawful evidence of such highway, although it does not appear on said record that the said highway has been approved of by the court of sessions in said county, any former law to the contrary notwithstanding.

Commis-
sioners in
Richmond
county.

XVII. *And be it further enacted*, That the freeholders and inhabitants of the county of Richmond, are hereby authorised, at their annual town meeting for electing town officers to elect three freeholders in each town, to be commissioners for laying out and regulating highways; and also as many freeholders in each town as the majority of the freeholders and inhabitants, then assembled shall think necessary, to be surveyors and overseers for the mending repairing and keeping in order the several highways in the respective towns, for which they shall be elected, and the person so elected, as well as the commissioners who are to regulate and lay out highways, as those elected to be overseers and surveyors thereof, are hereby required to take the respective offices upon them; and in case of the death or removal of any of the commissioners or overseers aforesaid it shall be lawful for two justices of the peace living in the town, and in case there should be but one, then the next justice to the said town, in conjunction with the justice in the town, to appoint some fit person, to execute the office of commissioner or overseer as the case may require, until a new election shall be made at the next annual town meeting: And every such commissioner or overseer so appointed as aforesaid shall have the same powers, and be liable to the same penalties, as if chosen at such town meeting.

Laying out
of new or

XVIII. *And be it further enacted*, That when any new road is to be laid out in any town in the said county of Richmond or any road al-

ready laid out requires to be altered, the commissioners for such town, or the major part of them, with one or more of the commissioners from each of the other towns in the said county of Richmond, are hereby authorised to lay out all such public roads or highways, as they or the major part of them shall think necessary, and also to take a view of the roads already laid out, and if any of them shall appear inconvenient, and in their opinion an alteration absolutely necessary, they may alter the same and lay out such other public highways, as they or the major part of them shall think convenient; and if they find upon view any of the above roads, are lessened or blocked up, they may open the same to such width as they shall think proper not exceeding three rods nor less than two; and if any of the roads lessened or blocked up as aforesaid shall run between the land of two persons and a dispute shall arise which of them hath encroached upon the road, the said commissioners shall hear their respective allegations and proofs and give their judgment thereon as they or the major part of them shall think equitable and just, being first sworn in the words following viz. "You shall well and truly try this matter in dispute, between A. B. and C. D. respecting the road running between them, and give a true judgment thereon according to evidence. So help you God" and shall open and lay out the said highway agreeable to their decision thereon: And when any roads so opened as aforesaid, shall take away lands from any person, which were actually measured to him as part of the land by him purchased and which was before such sale laid out as a public road, the possessor of such lands shall have his remedy against the person or persons they respectively purchased from; *provided always* that nothing in this act relating to the said county of Richmond shall extend, or be construed to empower the commissioners aforesaid, to lay out any road through the lands or meadows of any person without the paying to him or them the true value of the lands so to be laid out into a highway or road, with such damage as he shall sustain thereby: And in case of public highways or roads, if any dispute shall arise respecting the value of the land, or the necessity of laying out such road, the said commissioners shall in such case deliver all their proceedings, signed by them, or a majority of them to the supervisors of the said county of Richmond, at their next meeting thereafter, who after examining the same and hearing the objections if any shall approve or reject the same, as it shall appear to them or the major part of them to be reasonable or necessary, and may agree with the owner or owners for the value of the land and damages, and if it shall happen that the supervisors shall be equally divided in their opinion in that case they shall call to their assistance the treasurer of the said county, who agreeing with either side, shall determine, and if the same be approved and confirmed the said supervisors shall cause the same, with their proceedings thereon, to be entered in the county records, and the county clerk is hereby required to enter the same, and the supervisors shall then endeavour to agree with the owner or owners of the lands, respecting the value thereof and the amount of damages and if they cannot agree, the same shall then be determined, and the true value set and appraised by the oath of twelve freeholders, not having any interest in the land, the said freeholders to be summoned by the sheriff of the said county of Richmond by virtue of a warrant to be issued by any one justice of the peace of the said county, who shall attend at the time and place mentioned in the said warrant, and swear the jury, and set with them upon hearing the parties, and swear the witnesses, but shall not give his vote with the said jury, in assessing the said value and damages; but if no controversy shall arise about the necessity of laying

altering of
old roads.

out such public highways, then the said commissioners shall report the same to the supervisors at their next meeting, and the said supervisors shall then endeavour to agree with the owner or owners of the land over which such highway shall be laid out for the value of the land and damages and if they cannot agree, the same shall be determined by a jury in the manner aforesaid; and in all cases of public highways so laid out or altered as aforesaid, the value of the lands and damages whether agreed on as aforesaid, or assessed by a jury, together with the charges of the commissioners, and of the jury, if there be a jury, and of the whole proceedings thereon had, shall be levied and paid in like manner as the other contingent charges of the county, and every highway so laid out, shall be a common public highway: But if the road laid out be for the private use and benefit of any particular person or persons, then the said commissioners shall hear and determine all disputes concerning the necessity of such private road, and the value of the land, damages and charges aforesaid, shall be paid by the person or persons, who desire the same to be laid out, and the road to be for the only proper use of such person or persons and their heirs and assigns, who shall pay for the same; and in case the person or persons applying for such private road, cannot agree with the owner or owners of the land over which such private road shall go, respecting the value of the land and damages, then the same shall be assessed by a jury in the manner above directed; *provided however* that the person through whose land the road shall be so laid out his heirs or assigns, shall not be debarred from crossing or using the said road.—

Wanton
damage or
obstruc-
tions.

XIX. *And be it further enacted*, That if any person within the said county of Richmond, shall alter, close or lessen, or shall wantonly damage any road, bridge or causeway or fence across any road or highway in the said county or erect or set up any gates thereon, or put or leave in any of them any unnecessary obstruction, without leave of the said commissioners, or if any person shall leave the carcase of any beast, or any broken carriage in any road or highway, for any longer time than may be necessary to remove the same every such person shall, for every such offence forfeit and pay to the overseers of the highways of the district where the offence shall be committed, the sum of five dollars to be recovered by the said overseer of the highways, with costs of suit, before any justice of the peace, upon the oath of any one credible witness, and levied by warrant from any justice of the peace, directed to the constable of the town where such offence is committed by distress of the goods and chattels of the offender; and the said constable, after six days notice shall be given by him, of the time and place of sale, shall make sale thereof, and out of the product of such sales, pay the said forfeiture and charges and return the overplus (if any there be) to the owner thereof, which said forfeiture of five dollars, shall be applied by the overseer of the highways, towards repairing the public roads or highways, within the town where such forfeiture shall arise.—

Width of
roads.

XX. *And be it further enacted*, That all common public roads or highways which shall be hereafter laid out by the aforesaid commissioners, in the said county of Richmond, shall not exceed three rods in breadth, nor be less than two; and where any private road, for the particular use and benefit of any person as aforesaid shall be laid out through the land or meadow of any person, it shall not exceed the breadth of twenty feet.—

Repairs to
highways
in towns;
work on
roads.

XXI. *And be it further enacted*, That the inhabitants of the towns in the said county of Richmond in which any public roads or highways do run, or shall be hereafter ascertained or laid out, shall clear and maintain the same, by draining, banking, cutting or stubbing the brush, car-

rying off the stones, and also the limbs of trees, hanging over the said roads, to be lopped and carried off, or the trees cut down as the same may be necessary, and so often as they or any of them, shall have notice from the respective surveyors or overseers of the highways shall by themselves or servants, clear, level and amend, the highways in such place and manner, as they shall be directed by the overseers or surveyors respectively not exceeding six days in the year, nor less than four, and for each day every person shall neglect, or refuse to work on the highways, as aforesaid, he shall forfeit and pay to the overseer of the highways of the town where he shall reside the sum of seventy five cents for every day he shall so refuse or neglect to work, and if the said penalty is not paid within six days after the same shall be incurred, it shall be levied with fifty cents costs, by a warrant under the hand and seal of the said overseer of the highways, directed to one of the constables of the town, where the neglect or refusal happens, and such constable shall levy the same by distress and sale of the goods and chattels of the offender, and pay the said penalty to the said overseer of the highways with twelve and an half cents for the said warrant and retain the other thirty seven and an half cents for his fees, returning the overplus of such sales (if any there be) to the owner, and the said penalty shall be applied by the said overseer of the highways towards amending and repairing the highways in his district: *Provided always* that every freeholder and inhabitant, whose real and personal property shall not exceed in value, the sum of two hundred and fifty dollars, shall not be obliged to work on the said highways, more than three days in every year.—

XXII. *And be it further enacted*, That all trees that stand in the land of any person through which any common public road or highway in the said county of Richmond is, or may hereafter be laid out, shall be for the proper use of the owner or owners of the same; but the owner shall not hinder the public from making use of so much timber which is standing or laying on that road as will amend and repair the highways or road running through that land; and if there should not be sufficient timber on the public roads to amend and repair the same or should any other materials for that purpose be necessary, the overseers shall have power to purchase any of the aforesaid materials, in the best and cheapest manner they can, and shall carry in their respective accounts to the supervisors, who shall add so much to the respective towns where the same did arise, and be by them raised in the same manner, as the other contingent charges are raised and levied.

Trees in highway in Richmond county.

XXIII. *And be it further enacted*, That where any highway from any plantation in the said county of Richmond, to any meadow, mill or common landing place shall run through the land or meadow of any person it shall be lawful for every such person by the approbation of the commissioners as aforesaid, to place and hang good and easy swinging gates on such highways and keep them in good repair at his own proper costs; and the several gates already standing and allowed, may be approved and continued or altered as the commissioners shall judge most convenient.

Swinging gates.

XXIV. *And be it further enacted*, That if the overseers of the roads and highways in the said county of Richmond, shall require any team, cart or waggon, and a man to manage the same, the said team, cart or waggon shall be esteemed to be for and in lieu of three days work of a single man, and the fine proportionable; and every person when called to work on the roads, shall bring spades, axes and other utensils, as shall be directed and approved of by the surveyors or overseers of the highways respectively.—

Team, cart and driver equal to three days' work.

Records of
highways.

XXV. *And be it further enacted*, That the commissioners in the said county of Richmond, or the majority of them, shall from time to time enter in writing, all the highways or roads, by them laid out, altered or closed, and sign the same and cause them to be entered on the county records; and the clerk is hereby directed to enter the same, unless in case of public roads, where a dispute arises about the necessity of laying out such road, in which case the said commissioners are to return their said proceedings to the supervisors, as is herein before directed; and whatsoever the said commissioners shall do according to the powers given them by this act, being so entered in the county record, shall be valid to every purpose.

Compensa-
tion of
highway
officers.

XXVI. *And be it further enacted*, That each commissioner in the said county of Richmond, shall take and receive a sum, not exceeding seventy five cents for every day he shall be employed in laying out and regulating or opening highways as aforesaid, for his care and trouble in doing the business required by this act; and the said commissioners shall transmit their accounts to the supervisors of the said county, at any of their stated meetings, of the number of days they have respectively spent in doing the business required by this act, and the supervisors, shall raise the same with the county tax, which shall be paid by the county treasurer to the commissioners and overseers, upon a warrant from the supervisors as in other cases, except where the commissioners are paid by private persons as before directed.

Repairs to
be made on
the order
of a justice
of the
peace.

XXVII. *And be it further enacted*, That upon the order of any one justice of the peace the surveyors or overseers of the several towns in the said county of Richmond shall within eight days thereafter warn and set to work the respective inhabitants and persons liable to mend and repair the highways and roads which by law they are obliged to repair; and if any of the surveyors or overseers, shall neglect or refuse to warn and set to work, the inhabitants as aforesaid, and see the said highways and roads amended and repaired, such surveyor or overseer, shall for every such neglect or refusal forfeit and pay the sum of five dollars to be recovered before any one justice of the peace of the said county where such neglect or refusal shall happen, which fines shall be applied towards repairing the said highways in such town wherein such fine shall arise.—

CHAP. 112.

AN ACT to authorise John Drake junior and Samuel Bogardus to erect a bridge across Wappingers Creek in the county of Dutchess.—

PASSED the 2d of April, 1801.

Persons
named au-
thorized to
build a
bridge over
Wappin-
gers creek.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That John Drake junior and Samuel Bogardus their heirs or assigns shall be and hereby are authorised, at their own costs and expences to erect and build a bridge across the mouth of the Wappingers creek in the county of Dutchess, to extend from or near the wharf of the said John Drake junior which is on the southeastern side of the said creek to a point of land opposite thereto, known by the name of the Sandy point, distant about one hundred and nineteen feet from the said wharf (the fee of the said land on both sides of the said creek being in the said John Drake junior) said bridge to be built of wood, sufficiently strong for the safe passage of loaded carts and waggons, to

be supported by piles, well driven into the bottom of the said creek, said bridge to be built at least fourteen feet wide and to be well covered with oak or pine plank not less than three inches thick, the lower string pieces to lie so high as at common high water to be at least six feet above the water, the sides of the said bridge to be secured by close substantial railings and to be so constructed with a draw to open at least twenty four feet, so as conveniently to admit masted vessels to pass and repass said bridge, and that the residue of the piles to be so drove as to leave another space of thirty feet clear, in the channel of the waters of said creek under the said bridge, both which said passages shall be a free open highway and shall be freely used without toll or reward.—

And be it further enacted, That the said John Drake junior and Samuel Bogardus shall on or before the first day of April in the year one thousand eight hundred and two compleat and finish said bridge and shall at all times thereafter as well by night as by day provide and keep sufficient person or persons to attend and open the said draw bridge during the season of navigation and such person or persons so attending on sufficient notice being given to them by the master or owner of any vessel having necessary business or occasion to pass said bridge by the blowing of a horn or otherwise such person or persons so attending said bridge shall immediately open or cause the said draw to be opened, and shall permit every such vessel whose mast cannot easily be unstepped or whose lading will not admit of her passage under the said bridge to pass through the said draw unmolested and freely as aforesaid.

Bridge to be built in one year; to have a draw.

And be it further enacted, That when any such vessel, masted or laden as aforesaid shall be unnecessarily detained from passing through said draw for more than fifteen minutes, by the refusal neglect or delay of any person or persons so attending the said bridge after such notice given as aforesaid the said John Drake junior and Samuel Bogardus shall on demand, pay to the master or owner of such vessel so unnecessarily detained the sum of four dollars for every half hour such vessel shall be so detained beyond the said fifteen minutes, and the master or owner of any masted vessel as aforesaid at whose request the said draw shall be opened, shall use all due diligence and expedition in passing such vessel through said draw under the like forfeiture of four dollars for every half hour of unnecessary delay after the said draw shall so have been opened to admit such vessel to pass through.—

Penalty for delay in opening draw.

And be it further enacted, That any master or owner of any vessel or any person or persons whatsoever who in passing through said draw bridge, or at any other time shall willfully injure or damage said bridge or any part thereof with a vessel or otherwise such master or owner of such vessel or other person or persons so offending shall on demand pay to the said John Drake junior and Samuel Bogardus or their proper representatives such sum or sums of money as shall be amply sufficient to repair such damages.—

Damage to bridge.

And be it further enacted, That whenever any rafts of saw logs or other lumber shall be brought to the said bridge to be passed up the said Wappingers creek and such raft of saw logs or other lumber shall be so large as that the space under the bridge will not admit the passing thereof without breaking up such raft then the said John Drake junior and Samuel Bogardus their heirs and assigns shall at their own expence within twenty four hours after due notice given by the owner or conductor of such raft to the person or persons attending said bridge cause such raft to be passed above or below said bridge and shall there within twelve hours deliver such raft to the owner or conductor thereof in as good order and connected together as it was when delivered to them

Passage of rafts under bridge.

and shall be answerable to the owner or conductor of such raft, for all damages which may have been sustained in separating and again connecting such raft, and in passing the same above said bridge.

Repairs to bridge.

And be it further enacted, That if the said John Drake junior and Samuel Bogardus their heirs or assigns shall neglect or refuse to keep the said bridge in proper and sufficient repair within a reasonable time after any injuries shall happen to the same, or shall neglect or refuse to comply with the terms mentioned in this act, or if the said bridge shall cause material obstructions in the channel of the said creek by sand bars or otherwise, and shall thereby become a public nuisance and complaint thereof being made to the court of general sessions of the peace held in and for the county Dutchess, the said court on due proof thereof shall have power to order the said nuisance or bridge to be removed, at their discretion.—

How long act to remain in force.

And be it further enacted, That this act shall continue in force for the term of seven years from and after the first day of April one thousand eight hundred and two and no longer, and that all forfeitures and penalties incurred by virtue of this act, shall be recovered with costs of suit in any court within this State having cognizance thereof.

CHAP. 113.

AN ACT concerning oaths.

PASSED the 2d of April, 1801.

Oath of abjuration to be taken by public officers.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That every person who shall hereafter be elected a member of the senate or of the assembly of this State before he takes his seat and every person who shall hereafter be elected governor or lieutenant governor of this State and every person who shall hereafter be appointed to any office, civil or military, before he enters upon the execution of his trust or office, shall and hereby is required to take and subscribe the following oath, that is to say "I do solemnly without any mental reservation or equivocation whatsoever, swear and declare that I renounce and abjure all allegiance and subjection to all and every foreign king, prince, potentate and state, in all matters ecclesiastical as well as civil; and that I will bear faith and true allegiance to the State of New York, as a free and independent State."

Oath of office.

And be it further enacted, That every person who shall hereafter be elected governor or lieutenant governor of this State, and every president of the senate, who shall at any time administer the government of this State, shall also, before he enters upon the execution of his trust or office, take the following oath of office, to wit. "I elected governor, lieutenant governor or president of the senate (as the case may be) of the State of New York, do solemnly swear and declare, that I will in all things, to the best of my knowledge and ability faithfully perform the trust reposed in me as governor, lieutenant governor or president of the senate (as the case may be) of the State of New York, by executing the laws and maintaining the peace, freedom and independence of the said State, in conformity to the powers delegated unto me by the constitution of the said State."

Oath of members of court of

And be it further enacted, That the president of the court for the trial of impeachments, and the correction of errors and every member of the

said court, and all judicial officers in this State, hereafter to be elected or appointed, shall also, before they enter upon the execution of their respective offices, severally take and subscribe the following oath, to wit "I do solemnly swear and declare, that I will, to the best of my knowledge and ability, execute the office of (here describe the office) according to the constitution and laws of the State of New York, in defence of the freedom and independence thereof, and for the maintenance of liberty and the distribution of justice among the citizens and inhabitants of the said State, without any fear, favor, partiality, affection or hope of reward."

errors and impeachments.

And be it further enacted That every person who shall hereafter be appointed secretary of this State, shall also, before he enters upon the execution of his office, take and subscribe the following oath, to wit : "I secretary of the State of New York, do solemnly swear and declare, that I will in all things according to the best of my knowledge, and ability, justly and honestly keep the records, parchments, papers and instruments of writing, committed unto me, and which shall be, from time to time hereafter committed unto me, by virtue of my said office, and in all things, to the best of my knowledge and understanding, faithfully and honestly perform the duty of my said office of secretary, and the trust reposed in me, without favor or partiality."

Oath of secretary of State.

And be it further enacted That every person who shall hereafter be appointed sheriff or coroner of the city and county of New York, or Albany or of any other county in this State, and the chief marshal of the city of Hudson and every of their deputies except such persons as may at any time be deputed by any sheriff to do a particular act only, shall also before he, they or any of them shall enter upon the execution of the said office, take the following oath, to wit I (sheriff or coroner or chief marshal, or deputy marshal, or under sheriff, or one of the deputies of the sheriff (as the case may be) of the city and county of New York (or Albany, or Hudson, or of the county of , as the case may be) do solemnly swear and declare, that I will well and truly serve the people of the State of New York in the office of sheriff (of coroner or chief marshal or deputy marshal, or under sheriff or one of the deputies of the sheriff, as the case may be) of the said county (or city and county, or city, as the case may be) during my continuance therein; and will faithfully and truly execute, or cause to be executed, (the words, or cause to be executed, to be omitted in the oath to be administered to an under sheriff, or deputy sheriff or deputy marshal) all writs and precepts which shall be delivered to me, or come to and remain in my hands for that purpose, according to the best of my knowledge, skill and judgment; and that I will not corruptly or unjustly use or exercise the said office, during the time that I shall remain therein, neither will I directly or indirectly accept, receive or take by any colour, means or device whatsoever, or consent to the taking any manner of fee or reward whatsoever, of or from any person or persons whomsoever, for the summoning, impanelling, or returning of any inquest, jury or tales, in any court for the people of this State, or between party and party, other than such fees or reward as now are, or hereafter shall be allowed by law for the same; and that I will not, directly or indirectly exact or demand, any manner of fee or reward whatsoever, from any person or persons whomsoever for serving or returning of any writ, precept or process whatsoever, or for any other service whatsoever in my said office, other than such fees or reward, as now are, or hereafter shall be allowed by law; but that I will demean myself honestly and

Oath of sheriffs, coroners and other officers.

put or leave in any of them any unnecessary obstruction without leave of the said commissioners; or if any person shall leave the carcase of any beast, or any broken carriage in any road or highway, for any longer time than may be necessary to remove the same, or set up in or near any road or highway, any thing by which horses are usually affrighted, or shall by any improper behaviour affright any horse or traveller on any road or highway, every such person shall for every such offence, forfeit and pay, to the overseer of the highways of the district where the offence shall be committed, the sum of five dollars, to be recovered by the said overseer of the highways, with costs of suit, by action of debt, before any court having cognizance thereof, and when recovered shall be applied to the repairing and improving the roads or highways, within such district in such manner as the overseer of the highways shall think best.—

Passing of
wagons
and sleighs.

XV. *And be it further enacted*, That in all cases of persons, meeting each other in carriages, waggon, carts, or sleighs on any road or highway in Kings county and all roads westward of the west end of Hempstead plains and westward of the town and village of Hempstead or on the main road to the westward of the great plains, in Queens county, those who are not going towards the city of New York, shall give way to such as are going towards the said city, under the penalty of five dollars for every offence, to be recovered with costs of suit, by any person who will sue for the same, before any justice of the peace of the county where the offence is committed; the one half of which penalty shall be for the use of the person, who shall prosecute for the same with effect, and the other half thereof shall be paid to the commissioners of the highways of the town where the offence was committed and be by them applied towards the repair of the highways in the same town.—

Records to
be evi-
dence.

XVI. *And be it further enacted*, That where any highway has been laid out by commissioners of any of the said counties, and entered in the records of said county or of any town, such record shall be good and lawful evidence of such highway, although it does not appear on said record that the said highway has been approved of by the court of sessions in said county, any former law to the contrary notwithstanding.

Commis-
sioners in
Richmond
county.

XVII. *And be it further enacted*, That the freeholders and inhabitants of the county of Richmond, are hereby authorised, at their annual town meeting for electing town officers to elect three freeholders in each town, to be commissioners for laying out and regulating highways; and also as many freeholders in each town as the majority of the freeholders and inhabitants, then assembled shall think necessary, to be surveyors and overseers for the mending repairing and keeping in order the several highways in the respective towns, for which they shall be elected, and the person so elected, as well as the commissioners who are to regulate and lay out highways, as those elected to be overseers and surveyors thereof, are hereby required to take the respective offices upon them; and in case of the death or removal of any of the commissioners or overseers aforesaid it shall be lawful for two justices of the peace living in the town, and in case there should be but one, then the next justice to the said town, in conjunction with the justice in the town, to appoint some fit person, to execute the office of commissioner or overseer as the case may require, until a new election shall be made at the next annual town meeting: And every such commissioner or overseer so appointed as aforesaid shall have the same powers, and be liable to the same penalties, as if chosen at such town meeting.

Laying out
of new or

XVIII. *And be it further enacted*, That when any new road is to be laid out in any town in the said county of Richmond or any road al-

ready laid out requires to be altered, the commissioners for such town, or the major part of them, with one or more of the commissioners from each of the other towns in the said county of Richmond, are hereby authorised to lay out all such public roads or highways, as they or the major part of them shall think necessary, and also to take a view of the roads already laid out, and if any of them shall appear inconvenient, and in their opinion an alteration absolutely necessary, they may alter the same and lay out such other public highways, as they or the major part of them shall think convenient; and if they find upon view any of the above roads, are lessened or blocked up, they may open the same to such width as they shall think proper not exceeding three rods nor less than two; and if any of the roads lessened or blocked up as aforesaid shall run between the land of two persons and a dispute shall arise which of them hath encroached upon the road, the said commissioners shall hear their respective allegations and proofs and give their judgment thereon as they or the major part of them shall think equitable and just, being first sworn in the words following viz. "You shall well and truly try this matter in dispute, between A. B. and C. D. respecting the road running between them, and give a true judgment thereon according to evidence. So help you God" and shall open and lay out the said highway agreeable to their decision thereon: And when any roads so opened as aforesaid, shall take away lands from any person, which were actually measured to him as part of the land by him purchased and which was before such sale laid out as a public road, the possessor of such lands shall have his remedy against the person or persons they respectively purchased from; *provided always* that nothing in this act relating to the said county of Richmond shall extend, or be construed to empower the commissioners aforesaid, to lay out any road through the lands or meadows of any person without the paying to him or them the true value of the lands so to be laid out into a highway or road, with such damage as he shall sustain thereby: And in case of public highways or roads, if any dispute shall arise respecting the value of the land, or the necessity of laying out such road, the said commissioners shall in such case deliver all their proceedings, signed by them, or a majority of them to the supervisors of the said county of Richmond, at their next meeting thereafter, who after examining the same and hearing the objections if any shall approve or reject the same, as it shall appear to them or the major part of them to be reasonable or necessary, and may agree with the owner or owners for the value of the land and damages, and if it shall happen that the supervisors shall be equally divided in their opinion in that case they shall call to their assistance the treasurer of the said county, who agreeing with either side, shall determine, and if the same be approved and confirmed the said supervisors shall cause the same, with their proceedings thereon, to be entered in the county records, and the county clerk is hereby required to enter the same, and the supervisors shall then endeavour to agree with the owner or owners of the lands, respecting the value thereof and the amount of damages and if they cannot agree, the same shall then be determined, and the true value set and appraised by the oath of twelve freeholders, not having any interest in the land, the said freeholders to be summoned by the sheriff of the said county of Richmond by virtue of a warrant to be issued by any one justice of the peace of the said county, who shall attend at the time and place mentioned in the said warrant, and swear the jury, and set with them upon hearing the parties, and swear the witnesses, but shall not give his vote with the said jury, in assessing the said value and damages; but if no controversy shall arise about the necessity of laying

altering of
old roads.

out such public highways, then the said commissioners shall report the same to the supervisors at their next meeting, and the said supervisors shall then endeavour to agree with the owner or owners of the land over which such highway shall be laid out for the value of the land and damages and if they cannot agree, the same shall be determined by a jury in the manner aforesaid; and in all cases of public highways so laid out or altered as aforesaid, the value of the lands and damages whether agreed on as aforesaid, or assessed by a jury, together with the charges of the commissioners, and of the jury, if there be a jury, and of the whole proceedings thereon had, shall be levied and paid in like manner as the other contingent charges of the county, and every highway so laid out, shall be a common public highway: But if the road laid out be for the private use and benefit of any particular person or persons, then the said commissioners shall hear and determine all disputes concerning the necessity of such private road, and the value of the land, damages and charges aforesaid, shall be paid by the person or persons, who desire the same to be laid out, and the road to be for the only proper use of such person or persons and their heirs and assigns, who shall pay for the same; and in case the person or persons applying for such private road, cannot agree with the owner or owners of the land over which such private road shall go, respecting the value of the land and damages, then the same shall be assessed by a jury in the manner above directed; *provided however* that the person through whose land the road shall be so laid out his heirs or assigns, shall not be debarred from crossing or using the said road.—

Wanton
damage or
obstruc-
tions.

XIX. *And be it further enacted*, That if any person within the said county of Richmond, shall alter, close or lessen, or shall wantonly damage any road, bridge or causeway or fence across any road or highway in the said county or erect or set up any gates thereon, or put or leave in any of them any unnecessary obstruction, without leave of the said commissioners, or if any person shall leave the carcase of any beast, or any broken carriage in any road or highway, for any longer time than may be necessary to remove the same every such person shall, for every such offence forfeit and pay to the overseers of the highways of the district where the offence shall be committed, the sum of five dollars to be recovered by the said overseer of the highways, with costs of suit, before any justice of the peace, upon the oath of any one credible witness, and levied by warrant from any justice of the peace, directed to the constable of the town where such offence is committed by distress of the goods and chattels of the offender; and the said constable, after six days notice shall be given by him, of the time and place of sale, shall make sale thereof, and out of the product of such sales, pay the said forfeiture and charges and return the overplus (if any there be) to the owner thereof, which said forfeiture of five dollars, shall be applied by the overseer of the highways, towards repairing the public roads or highways, within the town where such forfeiture shall arise.—

Width of
roads.

XX. *And be it further enacted*, That all common public roads or highways which shall be hereafter laid out by the aforesaid commissioners, in the said county of Richmond, shall not exceed three rods in breadth, nor be less than two; and where any private road, for the particular use and benefit of any person as aforesaid shall be laid out through the land or meadow of any person, it shall not exceed the breadth of twenty feet.—

Repairs to
highways
in towns;
work on
roads.

XXI. *And be it further enacted*, That the inhabitants of the towns in the said county of Richmond in which any public roads or highways do run, or shall be hereafter ascertained or laid out, shall clear and maintain the same, by draining, banking, cutting or stubbing the brush, car-

rying off the stones, and also the limbs of trees, hanging over the said roads, to be lopped and carried off, or the trees cut down as the same may be necessary, and so often as they or any of them, shall have notice from the respective surveyors or overseers of the highways shall by themselves or servants, clear, level and amend, the highways in such place and manner, as they shall be directed by the overseers or surveyors respectively not exceeding six days in the year, nor less than four, and for each day every person shall neglect, or refuse to work on the highways, as aforesaid, he shall forfeit and pay to the overseer of the highways of the town where he shall reside the sum of seventy five cents for every day he shall so refuse or neglect to work, and if the said penalty is not paid within six days after the same shall be incurred, it shall be levied with fifty cents costs, by a warrant under the hand and seal of the said overseer of the highways, directed to one of the constables of the town, where the neglect or refusal happens, and such constable shall levy the same by distress and sale of the goods and chattels of the offender, and pay the said penalty to the said overseer of the highways with twelve and an half cents for the said warrant and retain the other thirty seven and an half cents for his fees, returning the overplus of such sales (if any there be) to the owner, and the said penalty shall be applied by the said overseer of the highways towards amending and repairing the highways in his district: *Provided always* that every freeholder and inhabitant, whose real and personal property shall not exceed in value, the sum of two hundred and fifty dollars, shall not be obliged to work on the said highways, more than three days in every year.—

XXII. *And be it further enacted*, That all trees that stand in the land of any person through which any common public road or highway in the said county of Richmond is, or may hereafter be laid out, shall be for the proper use of the owner or owners of the same; but the owner shall not hinder the public from making use of so much timber which is standing or laying on that road as will amend and repair the highways or road running through that land; and if there should not be sufficient timber on the public roads to amend and repair the same or should any other materials for that purpose be necessary, the overseers shall have power to purchase any of the aforesaid materials, in the best and cheapest manner they can, and shall carry in their respective accounts to the supervisors, who shall add so much to the respective towns where the same did arise, and be by them raised in the same manner, as the other contingent charges are raised and levied.

XXIII. *And be it further enacted*, That where any highway from any plantation in the said county of Richmond, to any meadow, mill or common landing place shall run through the land or meadow of any person it shall be lawful for every such person by the approbation of the commissioners as aforesaid, to place and hang good and easy swinging gates on such highways and keep them in good repair at his own proper costs; and the several gates already standing and allowed, may be approved and continued or altered as the commissioners shall judge most convenient.

XXIV. *And be it further enacted*, That if the overseers of the roads and highways in the said county of Richmond, shall require any team, cart or waggon, and a man to manage the same, the said team, cart or waggon shall be esteemed to be for and in lieu of three days work of a single man, and the fine proportionable; and every person when called to work on the roads, shall bring spades, axes and other utensils, as shall be directed and approved of by the surveyors or overseers of the highways respectively.—

Trees in highway in Richmond county.

Swinging gates.

Team, cart and driver equal to three days work.

Records of
highways.

XXV. *And be it further enacted*, That the commissioners in the said county of Richmond, or the majority of them, shall from time to time enter in writing, all the highways or roads, by them laid out, altered or closed, and sign the same and cause them to be entered on the county records; and the clerk is hereby directed to enter the same, unless in case of public roads, where a dispute arises about the necessity of laying out such road, in which case the said commissioners are to return their said proceedings to the supervisors, as is herein before directed; and whatsoever the said commissioners shall do according to the powers given them by this act, being so entered in the county record, shall be valid to every purpose.

Compensa-
tion of
highway
officers.

XXVI. *And be it further enacted*, That each commissioner in the said county of Richmond, shall take and receive a sum, not exceeding seventy five cents for every day he shall be employed in laying out and regulating or opening highways as aforesaid, for his care and trouble in doing the business required by this act; and the said commissioners shall transmit their accounts to the supervisors of the said county, at any of their stated meetings, of the number of days they have respectively spent in doing the business required by this act, and the supervisors, shall raise the same with the county tax, which shall be paid by the county treasurer to the commissioners and overseers, upon a warrant from the supervisors as in other cases, except where the commissioners are paid by private persons as before directed.

Repairs to
be made on
the order
of a justice
of the
peace.

XXVII. *And be it further enacted*, That upon the order of any one justice of the peace the surveyors or overseers of the several towns in the said county of Richmond shall within eight days thereafter warn and set to work the respective inhabitants and persons liable to mend and repair the highways and roads which by law they are obliged to repair; and if any of the surveyors or overseers, shall neglect or refuse to warn and set to work, the inhabitants as aforesaid, and see the said highways and roads amended and repaired, such surveyor or overseer, shall for every such neglect or refusal forfeit and pay the sum of five dollars to be recovered before any one justice of the peace of the said county where such neglect or refusal shall happen, which fines shall be applied towards repairing the said highways in such town wherein such fine shall arise.—

CHAP. 112.

AN ACT to authorise John Drake junior and Samuel Bogardus to erect a bridge across Wappingers Creek in the county of Dutchess.—

PASSED the 2d of April, 1801.

Persons
named au-
thorized to
build a
bridge over
Wapping-
ers creek.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That John Drake junior and Samuel Bogardus their heirs or assigns shall be and hereby are authorised, at their own costs and expences to erect and build a bridge across the mouth of the Wappingers creek in the county of Dutchess, to extend from or near the wharf of the said John Drake junior which is on the southeastern side of the said creek to a point of land opposite thereto, known by the name of the Sandy point, distant about one hundred and nineteen feet from the said wharf (the fee of the said land on both sides of the said creek being in the said John Drake junior) said bridge to be built of wood, sufficiently strong for the safe passage of loaded carts and waggons, to

be supported by piles, well driven into the bottom of the said creek, said bridge to be built at least fourteen feet wide and to be well covered with oak or pine plank not less than three inches thick, the lower string pieces to lie so high as at common high water to be at least six feet above the water, the sides of the said bridge to be secured by close substantial railings and to be so constructed with a draw to open at least twenty four feet, so as conveniently to admit masted vessels to pass and repass said bridge, and that the residue of the piles to be so drove as to leave another space of thirty feet clear, in the channel of the waters of said creek under the said bridge, both which said passages shall be a free open highway and shall be freely used without toll or reward.—

And be it further enacted, That the said John Drake junior and Samuel Bogardus shall on or before the first day of April in the year one thousand eight hundred and two compleat and finish said bridge and shall at all times thereafter as well by night as by day provide and keep sufficient person or persons to attend and open the said draw bridge during the season of navigation and such person or persons so attending on sufficient notice being given to them by the master or owner of any vessel having necessary business or occasion to pass said bridge by the blowing of a horn or otherwise such person or persons so attending said bridge shall immediately open or cause the said draw to be opened, and shall permit every such vessel whose mast cannot easily be unstepped or whose lading will not admit of her passage under the said bridge to pass through the said draw unmolested and freely as aforesaid.

Bridge to be built in one year; to have a draw.

And be it further enacted, That when any such vessel, masted or laden as aforesaid shall be unnecessarily detained from passing through said draw for more than fifteen minutes, by the refusal neglect or delay of any person or persons so attending the said bridge after such notice given as aforesaid the said John Drake junior and Samuel Bogardus shall on demand, pay to the master or owner of such vessel so unnecessarily detained the sum of four dollars for every half hour such vessel shall be so detained beyond the said fifteen minutes, and the master or owner of any masted vessel as aforesaid at whose request the said draw shall be opened, shall use all due diligence and expedition in passing such vessel through said draw under the like forfeiture of four dollars for every half hour of unnecessary delay after the said draw shall so have been opened to admit such vessel to pass through.—

Penalty for delay in opening draw.

And be it further enacted, That any master or owner of any vessel or any person or persons whatsoever who in passing through said draw bridge, or at any other time shall willfully injure or damage said bridge or any part thereof with a vessel or otherwise such master or owner of such vessel or other person or persons so offending shall on demand pay to the said John Drake junior and Samuel Bogardus or their proper representatives such sum or sums of money as shall be amply sufficient to repair such damages.—

Damage to bridge.

And be it further enacted, That whenever any rafts of saw logs or other lumber shall be brought to the said bridge to be passed up the said Wappingers creek and such raft of saw logs or other lumber shall be so large as that the space under the bridge will not admit the passing thereof without breaking up such raft then the said John Drake junior and Samuel Bogardus their heirs and assigns shall at their own expence within twenty four hours after due notice given by the owner or conductor of such raft to the person or persons attending said bridge cause such raft to be passed above or below said bridge and shall there within twelve hours deliver such raft to the owner or conductor thereof in as good order and connected together as it was when delivered to them

Passage of rafts under bridge.

and shall be answerable to the owner or conductor of such raft, for all damages which may have been sustained in separating and again connecting such raft, and in passing the same above said bridge.

Repairs to bridge.

And be it further enacted, That if the said John Drake junior and Samuel Bogardus their heirs or assigns shall neglect or refuse to keep the said bridge in proper and sufficient repair within a reasonable time after any injuries shall happen to the same, or shall neglect or refuse to comply with the terms mentioned in this act, or if the said bridge shall cause material obstructions in the channel of the said creek by sand bars or otherwise, and shall thereby become a public nuisance and complaint thereof being made to the court of general sessions of the peace held in and for the county Dutchess, the said court on due proof thereof shall have power to order the said nuisance or bridge to be removed, at their discretion.—

How long act to remain in force.

And be it further enacted, That this act shall continue in force for the term of seven years from and after the first day of April one thousand eight hundred and two and no longer, and that all forfeitures and penalties incurred by virtue of this act, shall be recovered with costs of suit in any court within this State having cognizance thereof.

CHAP. 113.

AN ACT concerning oaths.

PASSED the 2d of April, 1801.

Oath of objur-
ation to be taken
by public
officers.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That every person who shall hereafter be elected a member of the senate or of the assembly of this State before he takes his seat and every person who shall hereafter be elected governor or lieutenant governor of this State and every person who shall hereafter be appointed to any office, civil or military, before he enters upon the execution of his trust or office, shall and hereby is required to take and subscribe the following oath, that is to say “I do solemnly without any mental reservation or equivocation whatsoever, swear and declare that I renounce and abjure all allegiance and subjection to all and every foreign king, prince, potentate and state, in all matters ecclesiastical as well as civil; and that I will bear faith and true allegiance to the State of New York, as a free and independent State.”

Oath of
office.

And be it further enacted, That every person who shall hereafter be elected governor or lieutenant governor of this State, and every president of the senate, who shall at any time administer the government of this State, shall also, before he enters upon the execution of his trust or office, take the following oath of office, to wit. “I elected governor, lieutenant governor or president of the senate (as the case may be) of the State of New York, do solemnly swear and declare, that I will in all things, to the best of my knowledge and ability faithfully perform the trust reposed in me as governor, lieutenant governor or president of the senate (as the case may be) of the State of New York, by executing the laws and maintaining the peace, freedom and independence of the said State, in conformity to the powers delegated unto me by the constitution of the said State.”

Oath of
members
of court of

And be it further enacted, That the president of the court for the trial of impeachments, and the correction of errors and every member of the

said court, and all judicial officers in this State, hereafter to be elected or appointed, shall also, before they enter upon the execution of their respective offices, severally take and subscribe the following oath, to wit "I do solemnly swear and declare, that I will, to the best of my knowledge and ability, execute the office of (here describe the office) according to the constitution and laws of the State of New York, in defence of the freedom and independence thereof, and for the maintenance of liberty and the distribution of justice among the citizens and inhabitants of the said State, without any fear, favor, partiality, affection or hope of reward."

errors and
impeach-
ments.

And be it further enacted That every person who shall hereafter be appointed secretary of this State, shall also, before he enters upon the execution of his office, take and subscribe the following oath, to wit: "I secretary of the State of New York, do solemnly swear and declare, that I will in all things according to the best of my knowledge, and ability, justly and honestly keep the records, parchments, papers and instruments of writing, committed unto me, and which shall be, from time to time hereafter committed unto me, by virtue of my said office, and in all things, to the best of my knowledge and understanding, faithfully and honestly perform the duty of my said office of secretary, and the trust reposed in me, without favor or partiality."

Oath of
secretary
of State.

And be it further enacted That every person who shall hereafter be appointed sheriff or coroner of the city and county of New York, or Albany or of any other county in this State, and the chief marshal of the city of Hudson and every of their deputies except such persons as may at any time be deputed by any sheriff to do a particular act only, shall also before he, they or any of them shall enter upon the execution of the said office, take the following oath, to wit I (sheriff or coroner or chief marshal, or deputy marshal, or under sheriff, or one of the deputies of the sheriff (as the case may be) of the city and county of New York (or Albany, or Hudson, or of the county of , as the case may be) do solemnly swear and declare, that I will well and truly serve the people of the State of New York in the office of sheriff (of coroner or chief marshal or deputy marshal, or under sheriff or one of the deputies of the sheriff, as the case may be) of the said county (or city and county, or city, as the case may be) during my continuance therein; and will faithfully and truly execute, or cause to be executed, (the words, or cause to be executed, to be omitted in the oath to be administered to an under sheriff, or deputy sheriff or deputy marshal) all writs and precepts which shall be delivered to me, or come to and remain in my hands for that purpose, according to the best of my knowledge, skill and judgment; and that I will not corruptly or unjustly use or exercise the said office, during the time that I shall remain therein, neither will I directly or indirectly accept, receive or take by any colour, means or device whatsoever, or consent to the taking any manner of fee or reward whatsoever, of or from any person or persons whomsoever, for the summoning, impanelling, or returning of any inquest, jury or tales, in any court for the people of this State, or between party and party, other than such fees or reward as now are, or hereafter shall be allowed by law for the same; and that I will not, directly or indirectly exact or demand, any manner of fee or reward whatsoever, from any person or persons whomsoever for serving or returning of any writ, precept or process whatsoever, or for any other service whatsoever in my said office, other than such fees or reward, as now are, or hereafter shall be allowed by law; but that I will demean myself honestly and

Oath of
sheriffs,
coroners
and other
officers.

impartially in all things, that shall belong to the duty of my said office, according to the best of my knowledge, skill and ability."

Oath of
attorney-
general.

And be it further enacted That every person who shall hereafter be appointed, attorney general of this State, or district attorney, shall before he enter upon the execution of his office, take and subscribe the following oath, viz. "I appointed attorney general, or district attorney do solemnly swear that I will in all things to the best of my knowledge and ability perform the trust reposed in me."

Oath of
surrogate.

And be it further enacted That every surrogate hereafter to be appointed, shall before he enters upon the execution of his office take and subscribe the following oath, viz. "I surrogate of the county of do solemnly swear, that I will in all things well and faithfully execute the office of surrogate of the said county according to the best of my knowledge and ability."

Oath of
registers
and clerks.

And be it further enacted That every person who shall hereafter be appointed register, or clerk of any court, or clerk of any city or county in this State, shall also, before he enters upon the execution of his office, take the following oath, to wit: "I register (or clerk or one of the clerks) of the court of (or clerk of the county of or of the city and county of or of the city of as the case may be) do solemnly swear and declare, that I will justly and honestly keep the records, parchments, papers and writings committed to me by virtue of my said office, and which shall be from time to time hereafter committed unto me, and in all things, to the best of my knowledge and understanding, faithfully and honestly perform the duty of my said office, and the trust reposed in me, without favor or partiality."

Oath of
ministerial
officers.

And be it further enacted, That all other ministerial officers hereafter to be appointed, shall also, before they respectively enter upon the execution of their respective offices, severally take and subscribe the following oath, to wit "I appointed to the office (here insert the officers title of office) do solemnly promise and swear, that I will in all things, to the best of my knowledge and ability, faithfully perform the trust reposed in me."

How oaths
taken and
subscribed.

And be it further enacted, That the said oaths shall be taken and subscribed before such person or persons as shall be appointed by commission for that purpose, under the great seal of this State, in nature of a dedimus potestatem, who shall take such subscriptions, on rolls, to be provided for that purpose, containing proper captions, with the said oaths written at length thereon, and subscribed with the proper names and hand writing of the several persons taking such respective oaths; which rolls shall be disposed of as follows, to wit; those containing the oaths and subscriptions of any governor, lieutenant governor, president of the senate, member of the senate or assembly, chancellor, judge of the supreme court, judge of the court of probates, or any officer of either of the said courts, or attorney general, or secretary of this State, or district attorney, or military officer whose office shall extend into more than one county, shall be deposited and kept in the office of the secretary of this State; and those containing the oaths and subscriptions of the respective county officers, both civil and military, shall be deposited and kept in the office of the clerk of the same county.—

Forfeiture
of office.

And be it further enacted That if any officer, civil or military in this State, shall execute his office, without having first taken and subscribed the oaths or affirmations required by law, and the oath to support the constitution of the United States, such officers shall thereby forfeit their said offices respectively and be removed therefrom, and such

neglect or omission is hereby declared to be a misdemeanor indictable and punishable by fine and imprisonment.—

And be it further enacted That the clerk of each county in this State shall on or before the fifteenth day of January in every year at the expense of this State, give information to the person administering the government of this State of such persons, as have taken the oaths required by law to be taken, and of such as have neglected to take the same, and also of all vacancies in such county, occasioned by death, removal or otherwise in any office civil or military.

Clerks to give notice of filing of oaths.

And be it further enacted That if any person whose name is inserted in the commission of dedimus potestatem in any of the counties of this State shall not make a return of the rolls containing the names of all such officers to whom he shall have administered the oaths of office, within six months after he shall have administered the said oaths, every such person neglecting to make such return as aforesaid, shall forfeit to the people of this State the sum of twenty five dollars, to be sued for and recovered with costs of suit before any court having cognizance of the same, by the clerk of the county in which the said person so making default as aforesaid shall reside, one moiety of which forfeiture when recovered shall by the said clerk be paid into the hands of the treasurer of the said county to be disposed of in such manner as the board of supervisors of the county shall direct. And it shall be lawful for the said clerk to retain the other moiety of the said forfeiture for his own use.—

Forfeiture for failure to return list of persons to whom oaths administered.

And be it further enacted That nothing herein before contained shall be construed to extend to any county treasurer, supervisor, town clerk, commissioner of the highways, overseer of the highways, assessor, collector, constable or other town officer.—

Certain officers not affected.

And be it further enacted, That it shall be lawful for every person empowered to administer an oath to administer it in the following form. To all persons who shall declare they have conscientious scruples about the present mode of administering oaths by laying the hand on and kissing the gospels, to wit, the person swearing shall with his or her hand uplifted swear by the ever living God, and shall not be compelled to lay the hand on or kiss the gospels, and oaths so administered shall be equally effectual and expose such person to the like pains and penalties for wilful and corrupt perjury, as oaths administered in the usual form.

Manner of administering oaths.

And be it further enacted, That every person believing in the existence of a Supreme Being, and a future state of rewards and punishments who shall have conscientious scruples against taking an oath, shall in all cases where an oath is upon any lawful occasion to be administered be admitted instead of taking an oath, to make his or her solemn affirmation or declaration in the following form to wit—“You do solemnly, sincerely and truly declare and affirm” which solemn affirmation or declaration shall be equally valid as if such person had taken an oath in the usual form, and every person guilty of falsely and corruptly affirming and declaring as aforesaid shall incur and suffer the like pains and penalties as are or shall be inflicted on persons convicted of wilful and corrupt perjury.

Form of affirmation.

And be it further enacted That it shall not be necessary for any commissioner of oyer and terminer and gaol delivery, who at the time of acting as such, shall hold any judicial office in this State, to take any oath mentioned in this act, but every other person named as such commissioner, shall before he acts as such, take and subscribe the oath first mentioned in this act, and also the oath herein prescribed to be taken by judicial officers. *And further* that no proceeding whatsoever before any commissioner named in any commission of oyer and terminer and

Commissioners of oyer and terminer.

gaol delivery shall be void, or in any manner impeached by reason that any commissioner therein named shall not have taken any oath in this act mentioned.—

CHAP. 114.

AN ACT for raising monies in the city of Hudson for the support of a night watch, and to defray the expence of the public lamps of the said city.

PASSED the 2d of April, 1801.

Tax levy in
Hudson
city.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the mayor recorder aldermen and commonalty of the city of Hudson in common council convened, are hereby fully authorized and empowered, to order the raising annually, a sum not exceeding in any one year six hundred and twenty five dollars by a tax on the real and personal estates of the freeholders and inhabitants in the said city of Hudson within the limits following, to wit, beginning at the river Hudson on the north line of the farm of Thomas Jenkins which he bought of Jacob I. Van Hoesen running easterly along the said north line to and across the main road, thence southerly along the easterly side of the said road to and across the road leading from the city of Hudson to the town of Claverack, thence westerly along the southerly side of the said last mentioned road to the house of Ezekiel Gilbert lately occupied by John Mandeville, from thence on a direct line to the mouth of Casawa kill, thence north-west to the most westerly bounds of the said city thence northerly and easterly to the place of beginning, for defraying the expence of maintaining a night watch in the said city, and of the public lamps therein, which monies shall be assessed on the estates of the several persons to be taxed for the same, and be levied and collected in the same manner as monies for the relief of the poor in the said city are by law directed to be levied and collected, and shall be paid to the chamberlain of the said city at such times as the said mayor recorder aldermen and commonalty shall annually for that purpose appoint.

How long
act to be in
force.

And be it further enacted, That this act shall continue in force until the third day of April in the year one thousand eight hundred and six.

CHAP. 115.

AN ACT for making process in courts of equity effectual against mortgagors who abscond or refuse to appear.

PASSED the 2d of April, 1801.

Publica-
tion of pro-
cess
against
absconding
mort-
gagors.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That if in any suit against any mortgagor in the court of chancery against whom a subpœna or other process shall issue, such mortgagor shall not cause an appearance to be entered according to the rules of the said court, if such process had been duly served, and it shall appear by affidavit to the satisfaction of the said court that such mortgagor is withdrawn out of this State, or cannot upon due enquiry be found therein so as to be served with such process, the said court may make an order requiring such mortgagor to appear at a certain day

therein named, a copy of which shall within twenty days be inserted in at least two of the public newspapers printed in this State for the term of eight weeks; and if such mortgagor do not appear within the time limited by such order, or within such further time as the court shall appoint; then on satisfactory proof made of the publication of such order, in manner aforesaid, the said court may order the complainants bill to be taken pro confesso, and thereupon decree a sale of the mortgaged premises or such part thereof as shall be sufficient to discharge the debt due to such mortgagee together with the costs of such suit.

And be it further enacted That the said court before such decree made may cause the mortgaged premises to be appraised on oath by two appraisers to be appointed by the court if the same shall be deemed necessary, or in its discretion may proceed to make such decree without such appraisement, and upon such decree made, a writ shall be issued from the said court, to the sheriff of the county in which the mortgaged premises are situated, commanding him to make sale of the lands decreed to be sold at public vendue, and to return the monies arising from such sale into court, on a day to be mentioned in such writ not less than three months from the time of issuing the same, and the said sheriff shall thereupon cause an advertisement of the intended sale of such lands, to be inserted in at least one of the public newspapers printed in the county where such lands lie, and if no newspaper is printed in such county, then in one or more of the public newspapers printed in this State, and continue the same in the said paper or papers weekly for six weeks, before the day to be by him appointed for the sale of the same; and at the day so by him notified shall proceed to sell the same to the highest bidder, and shall execute deeds for the same to the purchaser, in such manner as the case may require, and such deeds shall be of the same validity, and as beneficial to the purchaser, as if the same had been executed by the mortgagee and mortgagor, and shall be judged an entire bar against them and each of them, and their and each of their heirs & assigns, both in law and equity; and the monies arising by the sale of said mortgaged premises, shall be applied to pay off and discharge the debt due to such mortgagee with such costs as the said court shall award, and the remainder, if any there be, shall be put at interest, on such security as the said court shall think sufficient, and the same shall be paid to the mortgagor, or his executors administrators or assigns, upon his or their application to the court for the same. *Provided always*, that no greater estate in the premises sold, shall at any time be granted or conveyed by the sheriff to such purchaser than would have vested in the mortgagee had the equity of redemption been duly foreclosed. *And provided also*, that if the mortgagor shall at any time before such sale cause his appearance to be duly entered in the said court and pay such costs to the mortgagee as the said court shall think reasonable then a supersedeas shall issue from the said court directed to such sheriff to stay his proceeding to the sale of such mortgaged premises; and upon such appearance being entered, such proceedings shall be thereupon had, as if an appearance had been originally entered within the time required by the rules of the said court in case the first process in the said suit had been duly served.

And be it further enacted That in all cases in which a decree for the sale of the mortgaged premises shall be made as aforesaid, and the mortgagee shall be paid the money, alleged by him to be due as above directed, it shall be lawful for any such mortgagor within the space of seven years from the time of the sale of such mortgaged premises, if such mortgagee shall have received more money than was due to him, to file

Appraisal
of mort-
gaged
premises;
sale by
sheriff.

Where
mortgagee
receives
more than
sum due.

his bill in the said court against such mortgagee and compel him to account for the sum really due at the time of such sale, and to refund what may have been over paid together with interest from the time of such payment, and the costs of suit, the former decree notwithstanding.

And be it further enacted, That the executors administrators and assigns of every mortgagee, shall in all respects be entitled to the like proceedings and decree against any mortgagor, who is withdrawn out of this State or cannot upon due enquiry be found therein as aforesaid, as by this act are provided in favor of such original mortgagee, and that such mortgagee his executors administrators or assigns, shall also be entitled to the like proceedings and decree against the heirs and assigns of any deceased mortgagor in case such heirs or assigns are withdrawn out of this State or cannot be found therein as aforesaid, subject however in all cases to the regulations contained in this act.

Rights of
executors,
adminis-
trators and
assigns of
mort-
gagees.

CHAP. 116.

AN ACT to regulate sales by public auction, and to prevent stock jobbing.

PASSED the 2nd of April, 1801.

Duty to be
paid on all
goods sold
at auction.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That all goods, wares, merchandize and effects whatsoever which shall at any time hereafter be exposed to sale at public auction or vendue within this State, by any auctioneer or other person duly appointed and authorized as is herein after directed, shall be struck off to the highest bidder, and shall be subject if the auction or vendue be in the city of New York, to a duty of three dollars, and if in any other city or county of this State to a duty of two dollars for every hundred dollars of the value or price at which the same shall be sold as aforesaid; and at and after the same rate for every greater or less sum, to be paid by the person who shall so sell the same; and in all cases where the auctioneer, or the owner of such goods so exposed to sale or any person employed by them or either of them, shall be the highest bidder, the said goods shall be subject to the payment of the said duties as if they had been sold to any other person.

Auction
sale for-
bidden by
persons
not author-
ized.

And be it further enacted, That no person whatsoever, other than persons appointed and authorized in the manner herein after directed or who may be duly authorised by and under the authority of the United States, shall sell or expose to sale at public auction or vendue within this State, any goods, wares, merchandize or effects whatsoever, and that the person administering the government of this State, by and with the advice and consent of the council of appointment shall annually appoint so many persons within this State to be auctioneers as they shall judge proper; *provided always,* that the number to be appointed in and for the city of New York, shall not at any one time exceed twenty four.

Bonds of
auctioneer.

And be it further enacted, That no person so to be appointed an auctioneer by virtue of this act, shall enter upon the execution of his office, until he shall have entered into recognizance to the people of this State with two sufficient freeholders as sureties in the sum of five thousand dollars conditioned for the payment of the duty herein before mentioned to the treasurer of the State, and also that such person shall in all things well, truly and faithfully behave and conform himself

according to the true intent and meaning of this act: Which recognizance in the city and county of New York, and in the cities of Albany and Hudson shall be taken by the mayor or recorder of the said cities respectively, and in the counties of Albany and Columbia and the other counties of this State by any judge of the court of common pleas for such county, and duplicates shall be made of the record of every such recognizance by the person taking the same, one whereof shall be delivered as soon as conveniently may be, to the comptroller of this State, and the other shall be retained by the person taking the recognizance.

And be it further enacted, That every auctioneer duly appointed and authorized by virtue of this act, in and for the city of New York who shall sell any goods, wares, merchandize or effects at public auction or vendue shall within twenty days after the expiration of every three months, the three first months to be computed from the date of his recognizance as aforesaid, render a just and true account in writing, subscribed by him to the mayor of the said city of all goods, wares, merchandize or effects by him sold as aforesaid, from the time of his entering into the recognizance aforesaid, or the time that the last account by him was rendered as aforesaid, the amount of each days sale, and the days when the same were respectively sold, and shall thereupon take, before the said mayor the following oath or affirmation as the case may require. "I do solemnly and sincerely swear (or affirm,) that the account now exhibited by me and to which I have subscribed my name contains a just and true account of all the goods, wares, merchandize and effects sold by me, subject to duty by law, within the time mentioned in the said account, and of the days upon which the same were respectively sold." And every such auctioneer shall within ten days after the rendering such account and taking the said oath, pay the amount of duty upon such account of sales to the bank of New York for the use of this State, which monies shall be credited by the said bank to the treasurer of this State, and the account with the oath endorsed, and the receipt for the payment of the money to the bank shall by the person rendering such account and making such payment be immediately transmitted to the comptroller to be filed in his office, and the comptroller shall thereupon certify the same to the treasurer, and charge him with the amount thereof.

Accounts to be rendered by auctioneers in New York city.

Oath, form of.

And be it further enacted, That every auctioneer duly appointed and authorized by virtue of this act, in any other city or county of this State, and who shall reside within sixty miles of the city of Albany shall within the times before limited, render a like account to the comptroller of this State under the same oath to be administered by the comptroller and shall within the like time thereafter pay the amount of duty upon such account of sales to the treasurer of this State; and that every auctioneer whose residence shall be more than sixty miles from the said city of Albany, shall render a like account under the like oath, and shall pay the amount of duties upon such account of sales unto the treasurer of this State, within twenty days after the expiration of every six months, the first six months to be computed from the date of the recognizance so to be by him entered into as aforesaid.

Accounts of other auctioneers.

And be it further enacted, That if any auctioneer shall neglect or refuse to render his account, or to pay the money due from him to the State for the duties according to law, the comptroller of this State, shall in every such case certify and publish such neglect or refusal in one or more of the public newspapers of this State, and from the time of publishing such advertisement, every such delinquent auctioneer shall be

Penalty for neglect by auctioneer.

deemed to have forfeited his appointment, and shall be thereafter disqualified from acting as an auctioneer under the same, and every such person so neglecting or refusing shall also for every such offence forfeit seven hundred and fifty dollars which forfeiture the comptroller shall direct the attorney general to cause to be sued for and recovered in the name, and for the use of the people of this State in any court of record having cognizance thereof.

Penalty for
illegally
acting as
auctioneer.

And be it further enacted, That every person who shall sell any goods, wares, merchandize or effects by way of public auction or vendue without being previously appointed and without having entered into recognition as aforesaid shall forfeit the sum of one hundred and twenty five dollars for each article so exposed to sale, to be recovered in manner aforesaid; *provided always,*

Goods free
from auc-
tion duty.

And it is hereby further enacted, That all lands and tenements, and goods belonging to this State or the United States and all goods and chattels which shall be seized by any public officer for or on account of any forfeiture or penalty, ships and vessels, goods and effects of deceased persons, or goods distrained for rent or taken in execution, effects of insolvent debtors, utensils of husbandry, goods damaged at sea and sold for the benefit of the owners or insurers, within twenty days after the same shall be landed under the inspection of the wardens of the port of New York, or of such inspector or inspectors as are hereinafter mentioned; horses, neat cattle, hogs, sheep, and also all articles the growth, produce, or manufacture of this State, shall in no wise be subject to, but are hereby exempted and declared free from the duty aforesaid, and may be sold by any person being a citizen of this State, in any part of this State, other than the city and county of New York; and that goods damaged at sea and sold for the benefit of the owners or insurers in any other city or county than the city of New York shall be sold under the inspection of such person or persons as shall be thereunto appointed in the cities of Albany and Hudson by the mayor or in case of his sickness or absence the recorder of the said cities respectively, and in the counties of Albany and Columbia and the other counties in this State by the first judge, or in case of his sickness or absence any other judge of the court of common pleas for such county; and the said civil officers are hereby authorized and required to appoint in each such city or county one or more, not exceeding three discreet persons to be inspectors of such damaged goods as aforesaid: *And provided further,* that nothing in this act contained shall extend to any sale or sales of ships, their tackle, apparel or furniture, or the cargoes thereof which shall be stranded or wrecked within this State, and sold for the benefit of the insurers or proprietors thereof.

Sales,
how and
where con-
ducted.

And be it further enacted, That no auctioneer shall expose to sale by public auction or vendue within the cities of New York, Albany or Hudson, any goods, wares, merchandize or effects liable to the duty aforesaid but at their respective houses or stores, except rum, wine, brandy, molasses, indigo, rice, coffee, cotton, sugar, cordage, tobacco, mahogany, logwood, brasiletto, fustick, camwood, earthen ware in crates or casks, and provisions in casks under the penalty of twenty five dollars for every such offence, to be recovered in manner aforesaid. *And further* that all goods, wares, merchandize or effects whatsoever except books or prints not prohibited by law, which shall be exposed to sale at public auction or vendue within the said city of New York by any auctioneer duly authorized according to the directions of this act, shall be so exposed to sale in open day between sunrise and sunset, upon pain that every such auctioneer in the said city of New York who shall

act contrary hereto, shall for such offence be deemed to have forfeited his appointment, and shall be thereafter disqualified from acting as an auctioneer under the same.

And be it further enacted, That no auctioneer duly authorized as aforesaid, or any other person whomsoever shall at the day and place when they shall hold their public auction or vendue, sell at private sale, any goods, wares, merchandize or effects liable to the duty aforesaid under the penalty of one thousand* two hundred and fifty dollars for every such offence. And no person shall expose to sale at public auction or vendue any goods, wares, merchandize or effects on which a duty is laid as aforesaid, as a deputy to any auctioneer duly authorized as aforesaid or otherwise, under the penalty of two hundred and fifty dollars for each offence, which said penalties may severally be recovered by any person who will prosecute for the same in any court having cognizance thereof, by action of debt or by information, the one moiety of each penalty when so recovered to be for the use of the people of this State, and the other moiety to the person who shall sue for the same. *Provided however,* that any auctioneer may employ his co-partner in trade, or one of his clerks to hold such auction or vendue, in case of his sickness or inability to attend, he being accountable for the conduct of such co-partner or clerk.

No private sales to be made; deputies not to act.

And be it further enacted, That no bellman or crier shall be employed at any auction or vendue in the city of New York, except at the sale of such articles as by this act are allowed to be sold at other places than the residence of the respective auctioneers; and that every person acting as bellman or crier, at any auction or vendue in the said city of New York, except as before excepted, shall forfeit and pay for every such offence the sum of two dollars and fifty cents with costs of suit, to any person who will first sue for the same before any court having cognizance thereof.

Bellman and criers.

And be it further enacted, That it shall not be lawful for any person whomsoever to sell at public auction or vendue within this State any public securities or stock created under the acts of the congress of the United States, or of any individual State, under the penalty of two hundred and fifty dollars for each offence, to be recovered by any person who will sue for the same in any court having cognizance thereof, by action of debt or by information, the one moiety thereof when recovered to be for the use of the people of this State, and the other moiety to the person so prosecuting.

Public securities not to be sold at auction.

And be it further enacted, That every auctioneer who shall receive or accept of any higher or further reward for his service in the sale of any goods, wares, merchandize or effects which shall be committed to his care, than at and after the rate of two and an half per cent in value, to which the said goods, wares, merchandize or effects by him actually sold shall amount; unless a previous agreement be made in writing between the owner of such goods, wares, merchandize, or effects and such auctioneer for a higher or further reward, shall forfeit the sum of two hundred and fifty dollars for every such offence to be recovered in the name and for the use of the people of this State under the direction of the comptroller as aforesaid.

Rate of compensation of auctioneer.

And be it further enacted, That the account of the monies received from time to time in the treasury of this State by virtue of this act shall be kept distinct, and the treasurer on the order of the comptroller shall pay to the chamberlain of the city of New York, to be appropriated by

Accounts of duties; payments for foreign poor.

* So in original.

the common council of the said city towards the support of the foreign poor within the same the amount of one third part of the monies arising from the said duty on sales at auction in the city of New York ; and the residue of the said monies arising on sales at auction either in the said city of New York, or in any part of this State are hereby appropriated for the support of the civil government of this State.

Fraud and
deceit;
punish-
ment for.

And be it further enacted, That if any person shall be guilty of any fraud or deceit in the execution of this act, or in eluding or defeating the operation thereof, every such person, shall on conviction thereof forfeit the sum of one thousand two hundred and fifty dollars as a penalty for every such offence, to be recovered by any person who will sue for the same in manner aforesaid, the one moiety thereof when recovered to be for the use of such person, and the other moiety for the use of the people of this State.

Prosecu-
tions.

And be it further enacted, That if no person shall within seven days after any offence shall be committed against this act, prosecute for the penalties therein mentioned, it shall be lawful for the comptroller to direct the attorney general to prosecute for the same, which penalties when recovered shall be paid to the treasurer for the use of the people of this State.

Stock job-
bing and
deals in
futures
prohibited;
penalties.

And be it further enacted, That all contracts written or verbal hereafter to be made for the sale or transfer and all wagers concerning the prices, present or future, of any certificate or evidence of debt due by or from the United States, or any separate State, or any share or shares of the stock of the bank of the United States, or any other bank, or any share or shares of the stock of any company established or to be established, by any law of the United States, or any individual State, shall be, and all such contracts are hereby declared to be absolutely void ; and both parties are hereby discharged from the lien and obligation of such contract or wager, unless the party contracting to sell and transfer the same, shall at the time of making such contract be in the actual possession of the certificate, or other evidence of such debt or debts, share or shares, or be otherwise entitled in his own right, or duly authorised and empowered by some persons so entitled to transfer the said certificate, evidence, debt or debts, share or shares, so to be contracted for ; and the party or parties who may have paid any premium, differences, or sums of money, in pursuance of any contract hereby declared to be void, shall and may recover all such sums of money, together with damages and costs by action on the case in assumpsit, for money had and received to the use of the plaintiff, to be brought in any court of record.

Auction-
eers to act
until suc-
cessors ap-
pointed.

And be it further enacted, That the auctioneers appointed during the last year, are hereby authorized to continue the sale of all goods, wares and merchandize at public auction, until they are removed from office, or reappointed according to law, or others are appointed in their stead, subject however to the same restrictions, and liable to the same penalties as if the period of their respective appointments had not expired. And that the said auctioneers who have acted as such since the fifteenth of March instant shall be and hereby are exonerated and relieved from all penalties thereby incurred.

CHAP. 117.

AN ACT empowering commissioners to make division of the real estate of Jacob W. Tremper, deceased.

PASSED the 2d of April, 1801.

WHEREAS, it is represented to the Legislature that Jacob W. Tremper hath died intestate leaving six children, to wit, William, John, Ann, Catharine, Elizabeth and Jacob. That the said Jacob W. Tremper was in his life time and at the time of his death seized of divers mesuages and lots of ground in the county of Ulster and of other real estate unimproved in other counties of this State, which on the decease of the said intestate became vested in his children as tenants in common in fee: That two only of the said heirs are of the age of twenty one years, and that a division of the said estate cannot be made conformably to the existing laws without great prejudice to the said heirs: Therefore,

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That David Delametter, Frederick Augustus Dezing and William Cockburn junior be commissioners for the division of the said estate; that the said commissioners or any two of them shall apportion the said estate into as many allotments as they shall deem proper having due respect to the value of the respective parts thereof; and that the said commissioners shall then notify such of the said heirs as shall be of the age of twenty one years or upwards and the guardian or guardians of such of the said heirs as shall be under that age to attend before the said commissioners at a day and place certain, and shall then proceed in the presence of such of the said heirs and guardian or guardians as aforesaid to a division of the said real estate in manner following, that is to say, having first made the said allotments as nearly equal in value as may be, the said commissioners shall then make as many tickets as there are lots or portions in each allotment with one of the numbers of each allotment and also one of the numbers of each lot or portion thereof, and the appraised value of the same on every ticket; and six tickets with the name of one of the said six heirs on each ticket, the ticket of the names shall be put into a box and the numbered tickets into another box, and such person or persons as the said commissioners shall then appoint shall immediately proceed to draw a ticket of the names, and then a ticket of the numbers and so proceed until all the tickets are drawn. And after drawing for the lots in one of the allotments, they shall proceed in the same manner to draw for the lots in the other allotment or allotments until the whole drawing is completed: And the lot or portion in each allotment bearing the number of the ticket drawn, next after drawing the ticket with the name of any one of the said heirs shall be the separate and divided share of the said real estate for such heir, of which balloting and all the proceedings in such division, the said commissioners shall make a full and fair entry and minute in a book certified under the hands of the said commissioners, or under the hands of any two of them; which book the said commissioners or any two of them shall file in the secretary's office of this State, and the same or an exemplification thereof under the great seal of this State shall be good evidence of such division, and which division shall be valid and effectual in the law to divide and separate the said real estate.

Partition
of real es-
tate of
Jacob W.
Tremper,
how made.

CHAP. 118.

AN ACT to establish a turnpike corporation, for improving the road from New Lebanon to the city of Hudson.

PASSED the 3d of April, 1801.

Union
Turnpike
Road
Company,
incorpor-
ated.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That Thomas Jenkins, Elisha Williams, Robert Jenkins, Stephen Hogeboom, Giles Frary, James Van Denbergh, Henry Malcolm, Thomas Parkman and William Ashley, and all such persons as shall associate for the purpose of making a good and sufficient road from the turnpike road, near the meeting-house in the village of New Lebanon in the town of Canaan, in the nearest and most direct route, as far as circumstances will admit, passing near John C. Hogebooms in Claverack, to the turnpike road, near the house of Ezekiel Gilbert in the city of Hudson, shall be and hereby are created and made, a corporation and body politic, in fact and in name, by the name of "The President, Directors and Company, of the Union Turnpike Road," and that by that name, they shall be capable in law to purchase, have, hold, enjoy and retain, to them and their respective successors, lands, tenements, and hereditaments, goods, chattels and effects, of every kind whatsoever, and the same or any part thereof to use, grant, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any courts of record, or any other place whatsoever: *Provided, however* that the amount of the real estate which the said corporation are hereby authorised to purchase and hold, shall not exceed, three thousand dollars; *and provided further,* that such estate as well real as personal so to be purchased and held, shall be necessary to fulfil the end and intent of the corporation hereby created and made, and to no other use, intent or purpose whatsoever.

Subscrip-
tions to
stock.

And be it further enacted, That Robert Jenkins and Elisha Williams, be and they are hereby appointed, commissioners to do and perform, the several duties herein after mentioned; that is to say, they shall on or before the first day of May next, procure two books, and in each of them enter as follows. "We whose names are hereunto subscribed, do for ourselves and our legal representatives, promise to pay to the President, Directors and Company of the Union Turnpike Road, the sum of twenty five dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportion, and at such time and place, as shall be determined by the said president, directors and company; and every subscriber shall at the time of subscribing, pay unto either of the said commissioners, the sum of ten dollars, for each share so subscribed; and the said commissioners shall, as soon as one thousand shares have been subscribed, cause an advertisement, to be inserted in the publick news paper printed in Hudson, giving at least ten days notice of the time and place, the said subscribers shall meet, for the purpose of choosing five directors, who shall be stockholders, for the purpose of managing the concerns of the said company for one year; and the day of choosing the said directors, shall thereafter, be the anniversary day of choosing directors; and the directors elected by the votes of the stockholders, shall immediately proceed to the choice of one of their number, for president; and the said president and directors, shall and may meet, from time to time, at such time and place, as they may, by their bye-laws direct; and

Election of
directors.

shall have power to make, such bye-laws rules, orders and regulations, not inconsistent with the constitution and laws of this State, or of the United States, as shall be necessary for the well ordering of the affairs of the said corporation: *Provided*, that at the election of directors, every person shall have a number of votes, equal to the number of shares, owned by such person, if such number shall not exceed fifty; and one vote for every three shares, owned by such person, exceeding fifty.

And be it further enacted, That the said president and directors may continue, to receive subscriptions, to the stock of the said corporation, until there shall be two thousand shares subscribed; and they shall have power to appoint such officers, agents, clerks, artists, workmen and others under them, as shall be necessary for executing the business of said corporation. Capital stock; officers.

And be it further enacted, That the said corporation by the president and directors, or by any agents, superintendants, artists or other persons employed by them, may enter into any lands, where they may deem it proper to construct said road, and to lay out, survey and labor on such routes, or tracts as shall be most eligible, for a good and sufficient road, between the places aforesaid; and contract with the owners for the purchase of so much thereof, as may be necessary for making said road, and erecting and establishing gates, toll-houses and all other works, to the said road belonging; and with their carriages, beasts, tools and implements, to enter in and upon, any land contiguous to the said road, and to carry away timber, stone, gravel, sand or other earth, being more conveniently situated for making or repairing said road, and to use the same for carrying on said work; the said president and directors paying the owner or owners of such land or materials, the value thereof: And in case of disagreement between the parties, respecting the damages to be done to the said land, or value of said materials; or if the owner or owners shall be females, covert, insane, under age or out of the country, then it shall and may be lawful for the said president and directors to apply to one of the judges or assistant justices of the court of common pleas in and for said county of Columbia, not interested in said road, who is hereby authorised and required, to nominate, and by an instrument in writing, signed by him, to appoint three commissioners, being freeholders of the county, and who shall not be inhabitants of any of the towns, through which said road shall pass: And it shall be the duty of the said president and directors, to cause a copy of such appointment, to be served on each of the said commissioners; who shall thereupon name a day, for meeting on the said lands, and perform the duties required of them, by this act: And also to give notice to the owner or owners of such lands, of said appointment, and the day being at least four days, from the time of giving such notice, when and where the commissioners will meet, for the purpose of examining the lands, and assessing the damages (except in case, the owner or owners, shall labor under any of the disabilities aforesaid, or be out of the county, in either of which cases, a copy of such notice, may be left at the dwelling house of the party, (if any) or other notorious place on the land through which the said road will pass.) *And further*, each of the said commissioners shall, before he proceeds to exercise the trust reposed in him by this act, take and subscribe an oath, before one of the justices of the peace, in and for the said county, that he will without favour or partiality, estimate and assess the damages which may be sustained, by the owner or owners, of any lands or improvements or materials which the said corporation, may deem necessary for the said road and the commissioners shall then pro-

How lands acquired; proceedings to appraise value.

ceed to view the premises, and having determined the damages, shall make an inquisition under their hands and seals, or the hands and seals of any two of them, stating the amount of damages (if any) which each or any of the owner or owners, of any parcel of land used or to be used for said road, shall have sustained or shall sustain; which inquisition shall be acknowledged by the commissioners signing the same, before one of the judges aforesaid, and filed together with the oath aforesaid in the office of the clerk of the county of Columbia, who shall at the expence, costs and charges of the president and directors aforesaid, enter the same of record, in the book kept by him for recording deeds; and the said corporation paying or tendering to the several owners of said lands, the several sums awarded in the inquisition, shall have and hold, to them, their successors and assigns forever, the lands & tenements described therein; and the president and directors aforesaid, shall pay to the judge who made the appointment of said commissioners, two dollars for his services; and to each of the said commissioners, for every day necessarily attending the duties required of them, by this act, two dollars and fifty cents. That the said president, directors and company shall cause a road to be laid out, not less than four, nor more than six rods wide not less than twenty feet of which shall be bedded with wood, stone, gravel, or any other hard substance, compacted together, a sufficient depth, to secure a solid foundation to the same; and the said road shall be faced with gravel or other hard substance, in such manner, as to secure, as near as the materials will admit, an even surface, rising towards the middle, by a gradual arch; and that there shall be ditches on each side of the said road, one whereof shall be of sufficient width, and so constructed, where the ground will admit thereof as that sleighs may travel therein, and they shall during the continuance of this act, maintain and keep the same in good order.

Manner of
of con-
structing
road.

Licence by
governor;
toll gates.

And be it further enacted, That the said president directors and company, shall be authorised to erect and fix, four gates or turnpikes, upon and across said road, in the manner herein after directed: And as soon as the said president, directors and company, shall have completed nine miles of the said road, from the southwest end thereof, they may give notice thereof to the governor of this State, who shall thereupon forthwith, nominate and appoint, three skilful and judicious persons, who shall at the expence of the corporation, view the same, and report to him in writing, whether the said road is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report be in the affirmative, then it shall be lawful for the governor, by licence under his hand, and the privy seal of the State, to permit and suffer the said president, directors & company to erect and fix one gate or turnpike, upon and across said road, near the Claverack creek, for the purpose of collecting the tolls and duties herein after granted, to the said corporation, from all persons travelling the same: *And further,* whenever the said president, directors and company, shall have completed a further distance of nine miles of the said road, and so on progressively, until the whole route shall be completed; on giving notice as aforesaid, to the governor of this State, and on like view, approbation, report and licence as aforesaid, it shall be lawful for the said president and directors, to erect and fix upon and across said road, other gates or turnpikes as aforesaid; the second whereof, at not less than nine miles from the gate herein first mentioned; the third not less than nine miles from the second, and the fourth, after the whole road is completed, at such place as shall to the president and directors appear most eligible. And the said president and directors may appoint toll

Rates of
toll.

gatherers, to collect and receive, at either of the three first mentioned gates or turnpikes, from all and every person or persons using said road, the following toll or sums of money ; viz, for a score of cattle and in that proportion for a greater or less number, passing through either of said gates, eighteen cents ; for a score of hogs or sheep, and in that proportion for a greater or less number, five cents ; for a horse and rider, a led or driven horse or mule, four cents ; for a sulkey, chair or chaise and one horse, ten cents, and for each additional horse, two cents ; for a coach, coachee, chariot, phaeton or other four wheel pleasure carriage, eighteen cents ; for every stage-coach or waggon, sixteen cents ; for every waggon or cart, drawn by two horses, or two oxen, ten cents, and for every additional horse or ox, one cent ; for every sleigh or sled, drawn by two horses or oxen four cents, and for every additional horse or ox, one cent each ; for every other carriage, four cents : *And further* it shall be lawful for the said president and directors to take and receive at the said fourth gate, half the toll allowed to be taken at the three other gates, and no more. And it shall be lawful for any of the toll gatherers, at the respective gates to stop any person riding, leading or driving any horse, cattle, sheep, or hogs, sulkey, phaeton, chaise, cart, waggon sleigh or other carriage of burthen or pleasure, from passing through such gate or turnpike, until they shall respectively have paid the toll as above specified : *Provided*, that nothing in this act shall be construed, so as to entitle the said corporation, to demand or receive toll of or from any person passing to or from publick worship, or to or from his common business on his farm, or to or from any mill, to which he may resort, for the grinding of grain for his family use or going to or returning from a funeral.

And be it further enacted, That the said corporation shall cause mile stones, to be placed on one side of said road, in its whole extent whereon it shall be marked, in legible characters the respective number of miles from the city hall of the city of Hudson ; and also shall cause to be affixed up in a conspicuous place at each gate or turnpike, a printed list of the rates of toll. Mile-stones.

And be it further enacted, That if any person or persons shall break, throw down or deface, any of the mile stones erected as aforesaid, or shall cut, break down or destroy any of the gates or turnpikes, which shall be erected in pursuance of this act ; or shall forcibly pass the same without having paid the legal toll, at such gate or turnpike, such person or persons shall forfeit and pay a fine of twenty five dollars, to be recovered by the treasurer of the corporation, to their use in an action of debt, with costs of suit ; and if any person shall with his team carriage or horse, turn out of said road to pass a gate or turnpike, on ground adjacent thereto ; and again enter on the said road, with intent to avoid the toll due by virtue of this act, such person shall forfeit and pay, for each offence the sum of ten dollars, to be recovered as aforesaid, with costs of suit. Injury to stones; evading toll.

And be it further enacted, That if any toll gatherer shall unreasonably delay or hinder, any traveller or passenger, at any of the gates aforesaid, or shall receive more toll, than is by this act established, he shall for every such offence, forfeit and pay the sum of twenty five dollars, to be prosecuted for and recovered, for the sole use of the person, so unreasonably hindered or defrauded. Unreasonable delay by toll-gatherer.

And be it further enacted, That the shares in the said turnpike road, shall be taken, deemed and considered, to be personal estate, and be transferable in such manner as the president and directors shall direct. Transfer of stock.

Dividends. *And be it further enacted,* That the president & directors of the said corporation, shall keep a just and fair account, of all monies received by the collectors of toll, on said road, and shall make and declare a dividend of the clear profits and income, (all contingent costs and charges being first deducted) amongst all the stockholders of the said corporation; and shall on the second Tuesday in January and July in every year, publish the half yearly dividend, to be made of the clear profits among the stockholders; and the times and places, when and where the same will be paid, and shall cause the same to be paid accordingly.

Statement to be filed with comptroller. *And be it further enacted,* That the said president & directors, shall within six months, after said road is compleated, lodge in the comptrollers office of this State, an account of the expence thereof; and the corporation shall annually exhibit to the comptroller of this State, a true account of all the income arising from said toll, with the annual disbursements on said road.

Dissolution of corporation. *And be it further enacted,* That the legislature may dissolve the said corporation when the income arising from said toll, shall have fully compensated the said corporation for all monies they may have expended, in purchasing, making, repairing and taking care of said road, together with an interest thereon of fourteen per centum per annum; and thereupon the right, interest and property of said road, shall be vested in the people of this State: *Provided,* that if the said corporation, shall not commence their operations on the said road, within two years after passing this act, or shall not within six years, complete the said road, according to the true intent and meaning of this act; then and in either of these cases this act shall cease, be void and of no effect.

Assessments on stockholders. *And be it further enacted,* That it shall be lawful for the said directors to call for and demand of and from the stockholders respectively, all such sums of money by them subscribed, or to be subscribed at such times and in such proportions as they shall see fit, under pain of forfeiture of their shares and of all previous payments made thereon to the said president, directors and company.

CHAP. 119.

AN ACT to establish a turnpike corporation for improving the road in the town of Stephen Town in the county of Rensselaer.

PASSED the 3rd of April, 1801.

Stephen-town Turnpike Road Company incorporated.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That John W. Schermerhorn, Abijah Bush, Henry Platt and William Douglas, and all such persons as shall associate for the purpose of making a good and sufficient road from the dwelling house of Henry Platt, in the town of Stephen Town in the county of Rensselaer in the nearest and most direct route as far as circumstances will admit, till it intersects the Rensselaer and Columbia turnpike road at the dwelling house of John W. Schermerhorn or between that house and the one of Abijah Bush, shall be and hereby are created and made a corporation and body politic in fact and in name, by the name of "The President, Directors and Company of the Stephen Town Turnpike Road;" and that by that name, they shall be capable in law to purchase, have, hold, enjoy and retain to them and their respective successors, lands, tenements, hereditaments, goods chattels and effects of every kind

whatsoever, and the same, or any part thereof to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all courts of record or any other place whatsoever : *Provided however*, that the amount of the real estate which the said corporation are hereby authorized to purchase and hold, shall not exceed two thousand dollars; and *provided further* that such estate so to be purchased and held, shall be necessary to fulfil the end and intent of the corporation hereby created and made, and to no other use, intent or purpose whatsoever.

And be it further enacted, That William Douglas, John W. Schermerhorn and Henry Platt be and are hereby appointed commissioners to do and perform, the several duties herein after mentioned ; that is to say, they shall on or before the first day of June next, procure three books, and in each of them enter as follows ; " we whose names are hereunto subscribed, do for ourselves and our legal representatives, promise to pay the President, Directors and Company of the Stephen Town Turnpike Road, the sum of ten dollars for every share of the stock in the said company set opposite to our respective names, in such manner and proportion, and at such time and place as shall be determined by the said president, directors and company ; " one of which books shall be left with each of the said commissioners at their respective places of abode, who shall keep the same open for the purpose of receiving subscriptions, and every subscriber shall at the time of subscribing, pay unto either of the said commissioners, the sum of one dollar for each share so subscribed ; and the said commissioners shall as soon as three hundred shares have been subscribed, cause an advertisement to be inserted in one of the publick news papers, printed in the city of Albany, giving at least fifteen days notice of the time and place, the said subscribers shall meet, for the purpose of choosing five directors, (who shall be stockholders,) for the purpose of managing the concerns of the said company for one year ; and the day of choosing the said directors, shall for ever thereafter be the anniversary day for choosing directors ; and any three of the said directors shall be a quorum, and capable of transacting the business of the said corporation; and every act of a majority of the said directors, so met, shall be binding on the said corporation : And the said directors elected by a plurality of the votes of the stockholders present shall immediately proceed to the choice of one of their number for president ; and the said president and directors may meet from time to time, at such time and place, as they may find expedient and necessary ; and shall have power to make such bye-laws, rules, orders and regulations, not inconsistent with the constitution or laws of this State or of the United States, as shall be necessary for the well ordering the affairs of the said corporation: *Provided*, that no person shall have more than twenty votes, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote, for every share by him held under the said number.

Subscription to stock.

Election of directors.

And be it further enacted, That the said president and directors may continue to receive subscriptions to the stock of the said corporation, until there shall be eight hundred shares subscribed, and shall have power to appoint such agents, clerks, workmen and others under them as shall be necessary for executing the business of the said corporation.

Capital stock; officers and agents.

And be it further enacted, That the said corporation by the president and directors, or by any agent, superintendant, artist or other person employed in their service, may enter into any land, where they shall deem it proper to construct the said road, and to lay out and survey such routes or tracts as shall be most practicable for effecting a good and

Entry on lands; damages.

the common council of the said city towards the support of the foreign poor within the same the amount of one third part of the monies arising from the said duty on sales at auction in the city of New York; and the residue of the said monies arising on sales at auction either in the said city of New York, or in any part of this State are hereby appropriated for the support of the civil government of this State.

Fraud and
deceit;
punish-
ment for.

And be it further enacted, That if any person shall be guilty of any fraud or deceit in the execution of this act, or in eluding or defeating the operation thereof, every such person, shall on conviction thereof forfeit the sum of one thousand two hundred and fifty dollars as a penalty for every such offence, to be recovered by any person who will sue for the same in manner aforesaid, the one moiety thereof when recovered to be for the use of such person, and the other moiety for the use of the people of this State.

Prosecu-
tions.

And be it further enacted, That if no person shall within seven days after any offence shall be committed against this act, prosecute for the penalties therein mentioned, it shall be lawful for the comptroller to direct the attorney general to prosecute for the same, which penalties when recovered shall be paid to the treasurer for the use of the people of this State.

Stock job-
bing and
deals in
futures
prohibited;
penalties.

And be it further enacted, That all contracts written or verbal hereafter to be made for the sale or transfer and all wagers concerning the prices, present or future, of any certificate or evidence of debt due by or from the United States, or any separate State, or any share or shares of the stock of the bank of the United States, or any other bank, or any share or shares of the stock of any company established or to be established, by any law of the United States, or any individual State, shall be, and all such contracts are hereby declared to be absolutely void; and both parties are hereby discharged from the lien and obligation of such contract or wager, unless the party contracting to sell and transfer the same, shall at the time of making such contract be in the actual possession of the certificate, or other evidence of such debt or debts, share or shares, or be otherwise entitled in his own right, or duly authorised and empowered by some persons so entitled to transfer the said certificate, evidence, debt or debts, share or shares, so to be contracted for; and the party or parties who may have paid any premium, differences, or sums of money, in pursuance of any contract hereby declared to be void, shall and may recover all such sums of money, together with damages and costs by action on the case in assumpsit, for money had and received to the use of the plaintiff, to be brought in any court of record.

Auction-
eers to act
until suc-
cessors ap-
pointed.

And be it further enacted, That the auctioneers appointed during the last year, are hereby authorized to continue the sale of all goods, wares and merchandize at public auction, until they are removed from office, or reappointed according to law, or others are appointed in their stead, subject however to the same restrictions, and liable to the same penalties as if the period of their respective appointments had not expired. And that the said auctioneers who have acted as such since the fifteenth of March instant shall be and hereby are exonerated and relieved from all penalties thereby incurred.

CHAP. 117.

AN ACT empowering commissioners to make division of the real estate of Jacob W. Tremper, deceased.

PASSED the 2d of April, 1801.

WHEREAS, it is represented to the Legislature that Jacob W. Tremper Preamble.
hath died intestate leaving six children, to wit, William, John, Ann, Catharine, Elizabeth and Jacob. That the said Jacob W. Tremper was in his life time and at the time of his death seized of divers mesuages and lots of ground in the county of Ulster and of other real estate unimproved in other counties of this State, which on the decease of the said intestate became vested in his children as tenants in common in fee: That two only of the said heirs are of the age of twenty one years, and that a division of the said estate cannot be made conformably to the existing laws without great prejudice to the said heirs: Therefore,

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That David Delametter, Frederick Augustus Dezeng and William Cockburn junior be commissioners for the division of the said estate; that the said commissioners or any two of them shall apportion the said estate into as many allotments as they shall deem proper having due respect to the value of the respective parts thereof; and that the said commissioners shall then notify such of the said heirs as shall be of the age of twenty one years or upwards and the guardian or guardians of such of the said heirs as shall be under that age to attend before the said commissioners at a day and place certain, and shall then proceed in the presence of such of the said heirs and guardian or guardians as aforesaid to a division of the said real estate in manner following, that is to say, having first made the said allotments as nearly equal in value as may be, the said commissioners shall then make as many tickets as there are lots or portions in each allotment with one of the numbers of each allotment and also one of the numbers of each lot or portion thereof, and the appraised value of the same on every ticket; and six tickets with the name of one of the said six heirs on each ticket, the ticket of the names shall be put into a box and the numbered tickets into another box, and such person or persons as the said commissioners shall then appoint shall immediately proceed to draw a ticket of the names, and then a ticket of the numbers and so proceed until all the tickets are drawn. And after drawing for the lots in one of the allotments, they shall proceed in the same manner to draw for the lots in the other allotment or allotments until the whole drawing is completed: And the lot or portion in each allotment bearing the number of the ticket drawn, next after drawing the ticket with the name of any one of the said heirs shall be the separate and divided share of the said real estate for such heir, of which balloting and all the proceedings in such division, the said commissioners shall make a full and fair entry and minute in a book certified under the hands of the said commissioners, or under the hands of any two of them; which book the said commissioners or any two of them shall file in the secretary's office of this State, and the same or an exemplification thereof under the great seal of this State shall be good evidence of such division, and which division shall be valid and effectual in the law to divide and separate the said real estate.

Partition
of real es-
tate of
Jacob W.
Tremper,
how made.

CHAP. 118.

AN ACT to establish a turnpike corporation, for improving the road from New Lebanon to the city of Hudson.

PASSED the 3d of April, 1801.

Union
Turnpike
Road
Company,
incorpor-
ated.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That Thomas Jenkins, Elisha Williams, Robert Jenkins, Stephen Hogeboom, Giles Frary, James Van Denbergh, Henry Malcolm, Thomas Parkman and William Ashley, and all such persons as shall associate for the purpose of making a good and sufficient road from the turnpike road, near the meeting-house in the village of New Lebanon in the town of Canaan, in the nearest and most direct route, as far as circumstances will admit, passing near John C. Hogebooms in Claverack, to the turnpike road, near the house of Ezekiel Gilbert in the city of Hudson, shall be and hereby are created and made, a corporation and body politic, in fact and in name, by the name of "The President, Directors and Company, of the Union Turnpike Road," and that by that name, they shall be capable in law to purchase, have, hold, enjoy and retain, to them and their respective successors, lands, tenements, and hereditaments, goods, chattels and effects, of every kind whatsoever, and the same or any part thereof to use, grant, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any courts of record, or any other place whatsoever: *Provided, however* that the amount of the real estate which the said corporation are hereby authorised to purchase and hold, shall not exceed, three thousand dollars; *and provided further*, that such estate as well real as personal so to be purchased and held, shall be necessary to fulfil the end and intent of the corporation hereby created and made, and to no other use, intent or purpose whatsoever.

Subscrip-
tions to
stock.

And be it further enacted, That Robert Jenkins and Elisha Williams, be and they are hereby appointed, commissioners to do and perform, the several duties herein after mentioned; that is to say, they shall on or before the first day of May next, procure two books, and in each of them enter as follows. "We whose names are hereunto subscribed, do for ourselves and our legal representatives, promise to pay to the President, Directors and Company of the Union Turnpike Road, the sum of twenty five dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportion, and at such time and place, as shall be determined by the said president, directors and company; and every subscriber shall at the time of subscribing, pay unto either of the said commissioners, the sum of ten dollars, for each share so subscribed; and the said commissioners shall, as soon as one thousand shares have been subscribed, cause an advertisement, to be inserted in the publick news paper printed in Hudson, giving at least ten days notice of the time and place, the said subscribers shall meet, for the purpose of choosing five directors, who shall be stockholders, for the purpose of managing the concerns of the said company for one year; and the day of choosing the said directors, shall thereafter, be the anniversary day of choosing directors; and the directors elected by the votes of the stockholders, shall immediately proceed to the choice of one of their number, for president; and the said president and directors, shall and may meet, from time to time, at such time and place, as they may, by their bye-laws direct; and

Election of
directors.

shall have power to make, such bye-laws rules, orders and regulations, not inconsistent with the constitution and laws of this State, or of the United States, as shall be necessary for the well ordering of the affairs of the said corporation: *Provided*, that at the election of directors, every person shall have a number of votes, equal to the number of shares, owned by such person, if such number shall not exceed fifty; and one vote for every three shares, owned by such person, exceeding fifty.

And be it further enacted, That the said president and directors may continue, to receive subscriptions, to the stock of the said corporation, until there shall be two thousand shares subscribed; and they shall have power to appoint such officers, agents, clerks, artists, workmen and others under them, as shall be necessary for executing the business of said corporation.

Capital stock; officers.

And be it further enacted, That the said corporation by the president and directors, or by any agents, superintendants, artists or other persons employed by them, may enter into any lands, where they may deem it proper to construct said road, and to lay out, survey and labor on such routes, or tracts as shall be most eligible, for a good and sufficient road, between the places aforesaid; and contract with the owners for the purchase of so much thereof, as may be necessary for making said road, and erecting and establishing gates, toll-houses and all other works, to the said road belonging; and with their carriages, beasts, tools and implements, to enter in and upon, any land contiguous to the said road, and to carry away timber, stone, gravel, sand or other earth, being more conveniently situated for making or repairing said road, and to use the same for carrying on said work; the said president and directors paying the owner or owners of such land or materials, the value thereof: And in case of disagreement between the parties, respecting the damages to be done to the said land, or value of said materials; or if the owner or owners shall be femes covert, insane, under age or out of the country, then it shall and may be lawful for the said president and directors to apply to one of the judges or assistant justices of the court of common pleas in and for said county of Columbia, not interested in said road, who is hereby authorised and required, to nominate, and by an instrument in writing, signed by him, to appoint three commissioners, being freeholders of the county, and who shall not be inhabitants of any of the towns, through which said road shall pass: And it shall be the duty of the said president and directors, to cause a copy of such appointment, to be served on each of the said commissioners; who shall thereupon name a day, for meeting on the said lands, and perform the duties required of them, by this act: And also to give notice to the owner or owners of such lands, of said appointment, and the day being at least four days, from the time of giving such notice, when and where the commissioners will meet, for the purpose of examining the lands, and assessing the damages (except in case, the owner or owners, shall labor under any of the disabilities aforesaid, or be out of the county, in either of which cases, a copy of such notice, may be left at the dwelling house of the party, (if any) or other notorious place on the land through which the said road will pass.) *And further*, each of the said commissioners shall, before he proceeds to exercise the trust reposed in him by this act, take and subscribe an oath, before one of the justices of the peace, in and for the said county, that he will without favour or partiality, estimate and assess the damages which may be sustained, by the owner or owners, of any lands or improvements or materials which the said corporation, may deem necessary for the said road and the commissioners shall then pro-

How lands acquired; proceedings to appraise value.

ceed to view the premises, and having determined the damages, shall make an inquisition under their hands and seals, or the hands and seals of any two of them, stating the amount of damages (if any) which each or any of the owner or owners, of any parcel of land used or to be used for said road, shall have sustained or shall sustain; which inquisition shall be acknowledged by the commissioners signing the same, before one of the judges aforesaid, and filed together with the oath aforesaid in the office of the clerk of the county of Columbia, who shall at the expence, costs and charges of the president and directors aforesaid, enter the same of record, in the book kept by him for recording deeds; and the said corporation paying or tendering to the several owners of said lands, the several sums awarded in the inquisition, shall have and hold, to them, their successors and assigns forever, the lands & tenements described therein; and the president and directors aforesaid, shall pay to the judge who made the appointment of said commissioners, two dollars for his services; and to each of the said commissioners, for every day necessarily attending the duties required of them, by this act, two dollars and fifty cents. That the said president, directors and company shall cause a road to be laid out, not less than four, nor more than six rods wide not less than twenty feet of which shall be bedded with wood, stone, gravel, or any other hard substance, compacted together, a sufficient depth, to secure a solid foundation to the same; and the said road shall be faced with gravel or other hard substance, in such manner, as to secure, as near as the materials will admit, an even surface, rising towards the middle, by a gradual arch; and that there shall be ditches on each side of the said road, one whereof shall be of sufficient width, and so constructed, where the ground will admit thereof as that sleighs may travel therein, and they shall during the continuance of this act, maintain and keep the same in good order.

Manner of
of con-
structing
road.

License by
governor;
toll gates.

And be it further enacted, That the said president directors and company, shall be authorised to erect and fix, four gates or turnpikes, upon and across said road, in the manner herein after directed: And as soon as the said president, directors and company, shall have completed nine miles of the said road, from the southwest end thereof, they may give notice thereof to the governor of this State, who shall thereupon forthwith, nominate and appoint, three skilful and judicious persons, who shall at the expence of the corporation, view the same, and report to him in writing, whether the said road is so far executed in a masterly and workmanlike manner, according to the true intent and meaning of this act; and if their report be in the affirmative, then it shall be lawful for the governor, by licence under his hand, and the privy seal of the State, to permit and suffer the said president, directors & company to erect and fix one gate or turnpike, upon and across said road, near the Claverack creek, for the purpose of collecting the tolls and duties herein after granted, to the said corporation, from all persons travelling the same: *And further,* whenever the said president, directors and company, shall have completed a further distance of nine miles of the said road, and so on progressively, until the whole route shall be completed; on giving notice as aforesaid, to the governor of this State, and on like view, approbation, report and licence as aforesaid, it shall be lawful for the said president and directors, to erect and fix upon and across said road, other gates or turnpikes as aforesaid; the second whereof, at not less than nine miles from the gate herein first mentioned; the third not less than nine miles from the second, and the fourth, after the whole road is completed, at such place as shall to the president and directors appear most eligible. And the said president and directors may appoint toll

Rates of
toll.

gatherers, to collect and receive, at either of the three first mentioned gates or turnpikes, from all and every person or persons using said road, the following toll or sums of money ; viz, for a score of cattle and in that proportion for a greater or less number, passing through either of said gates, eighteen cents ; for a score of hogs or sheep, and in that proportion for a greater or less number, five cents ; for a horse and rider, a led or driven horse or mule, four cents ; for a sulkey, chair or chaise and one horse, ten cents, and for each additional horse, two cents ; for a coach, coachee, chariot, phaeton or other four wheel pleasure carriage, eighteen cents ; for every stage-coach or waggon, sixteen cents ; for every waggon or cart, drawn by two horses, or two oxen, ten cents, and for every additional horse or ox, one cent ; for every sleigh or sled, drawn by two horses or oxen four cents, and for every additional horse or ox, one cent each ; for every other carriage, four cents : *And further* it shall be lawful for the said president and directors to take and receive at the said fourth gate, half the toll allowed to be taken at the three other gates, and no more. And it shall be lawful for any of the toll gatherers, at the respective gates to stop any person riding, leading or driving any horse, cattle, sheep, or hogs, sulkey, phaeton, chaise, cart, waggon sleigh or other carriage of burthen or pleasure, from passing through such gate or turnpike, until they shall respectively have paid the toll as above specified : *Provided*, that nothing in this act shall be construed, so as to entitle the said corporation, to demand or receive toll of or from any person passing to or from publick worship, or to or from his common business on his farm, or to or from any mill, to which he may resort, for the grinding of grain for his family use or going to or returning from a funeral.

And be it further enacted, That the said corporation shall cause mile stones, to be placed on one-side of said road, in its whole extent whereon it shall be marked, in legible characters the respective number of miles from the city hall of the city of Hudson ; and also shall cause to be affixed up in a conspicuous place at each gate or turnpike, a printed list of the rates of toll. Mile-stones.

And be it further enacted, That if any person or persons shall break, throw down or deface, any of the mile stones erected as aforesaid, or shall cut, break down or destroy any of the gates or turnpikes, which shall be erected in pursuance of this act ; or shall forcibly pass the same without having paid the legal toll, at such gate or turnpike, such person or persons shall forfeit and pay a fine of twenty five dollars, to be recovered by the treasurer of the corporation, to their use in an action of debt, with costs of suit ; and if any person shall with his team carriage or horse, turn out of said road to pass a gate or turnpike, on ground adjacent thereto ; and again enter on the said road, with intent to avoid the toll due by virtue of this act, such person shall forfeit and pay, for each offence the sum of ten dollars, to be recovered as aforesaid, with costs of suit. Injury to stones ; evading toll.

And be it further enacted, That if any toll gatherer shall unreasonably delay or hinder, any traveller or passenger, at any of the gates aforesaid, or shall receive more toll, than is by this act established, he shall for every such offence, forfeit and pay the sum of twenty five dollars, to be prosecuted for and recovered, for the sole use of the person, so unreasonably hindered or defrauded. Unreasonable delay by toll-gatherer.

And be it further enacted, That the shares in the said turnpike road, shall be taken, deemed and considered, to be personal estate, and be transferable in such manner as the president and directors shall direct. Transfer of stock.

Dividends. *And be it further enacted,* That the president & directors of the said corporation, shall keep a just and fair account, of all monies received by the collectors of toll, on said road, and shall make and declare a dividend of the clear profits and income, (all contingent costs and charges being first deducted) amongst all the stockholders of the said corporation; and shall on the second Tuesday in January and July in every year, publish the half yearly dividend, to be made of the clear profits, among the stockholders; and the times and places, when and where the same will be paid, and shall cause the same to be paid accordingly.

Statement to be filed with comptroller. *And be it further enacted,* That the said president & directors, shall within six months, after said road is completed, lodge in the comptrollers office of this State, an account of the expence thereof; and the corporation shall annually exhibit to the comptroller of this State, a true account of all the income arising from said toll, with the annual disbursements on said road.

Dissolution of corporation. *And be it further enacted,* That the legislature may dissolve the said corporation when the income arising from said toll, shall have fully compensated the said corporation for all monies they may have expended, in purchasing, making, repairing and taking care of said road, together with an interest thereon of fourteen per centum per annum; and thereupon the right, interest and property of said road, shall be vested in the people of this State: *Provided,* that if the said corporation, shall not commence their operations on the said road, within two years after passing this act, or shall not within six years, complete the said road, according to the true intent and meaning of this act; then and in either of these cases this act shall cease, be void and of no effect.

Assessments on stockholders. *And be it further enacted,* That it shall be lawful for the said directors to call for and demand of and from the stockholders respectively, all such sums of money by them subscribed, or to be subscribed at such times and in such proportions as they shall see fit, under pain of forfeiture of their shares and of all previous payments made thereon to the said president, directors and company.

CHAP. 119.

AN ACT to establish a turnpike corporation for improving the road in the town of Stephen Town in the county of Rensselaer.

PASSED the 3rd of April, 1801.

Stephen-town Turnpike Road Company incorporated.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That John W. Schermerhorn, Abijah Bush, Henry Platt and William Douglas, and all such persons as shall associate for the purpose of making a good and sufficient road from the dwelling house of Henry Platt, in the town of Stephen Town in the county of Rensselaer in the nearest and most direct route as far as circumstances will admit, till it intersects the Rensselaer and Columbia turnpike road at the dwelling house of John W. Schermerhorn or between that house and the one of Abijah Bush, shall be and hereby are created and made a corporation and body politic in fact and in name, by the name of "The President, Directors and Company of the Stephen Town Turnpike Road;" and that by that name, they shall be capable in law to purchase, have, hold, enjoy and retain to them and their respective successors, lands, tenements, hereditaments, goods chattels and effects of every kind

whatsoever, and the same, or any part thereof to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all courts of record or any other place whatsoever: *Provided however*, that the amount of the real estate which the said corporation are hereby authorized to purchase and hold, shall not exceed two thousand dollars; *and provided further* that such estate so to be purchased and held, shall be necessary to fulfil the end and intent of the corporation hereby created and made, and to no other use, intent or purpose whatsoever.

And be it further enacted, That William Douglas, John W. Schermerhorn and Henry Platt be and are hereby appointed commissioners to do and perform, the several duties herein after mentioned; that is to say, they shall on or before the first day of June next, procure three books, and in each of them enter as follows; "we whose names are hereunto subscribed, do for ourselves and our legal representatives, promise to pay the President, Directors and Company of the Stephen Town Turnpike Road, the sum of ten dollars for every share of the stock in the said company set opposite to our respective names, in such manner and proportion, and at such time and place as shall be determined by the said president, directors and company;" one of which books shall be left with each of the said commissioners at their respective places of abode, who shall keep the same open for the purpose of receiving subscriptions, and every subscriber shall at the time of subscribing, pay unto either of the said commissioners, the sum of one dollar for each share so subscribed; and the said commissioners shall as soon as three hundred shares have been subscribed, cause an advertisement to be inserted in one of the publick news papers, printed in the city of Albany, giving at least fifteen days notice of the time and place, the said subscribers shall meet, for the purpose of choosing five directors, (who shall be stockholders,) for the purpose of managing the concerns of the said company for one year; and the day of choosing the said directors, shall for ever thereafter be the anniversary day for choosing directors; and any three of the said directors shall be a quorum, and capable of transacting the business of the said corporation; and every act of a majority of the said directors, so met, shall be binding on the said corporation: And the said directors elected by a plurality of the votes of the stockholders present shall immediately proceed to the choice of one of their number for president; and the said president and directors may meet from time to time, at such time and place, as they may find expedient and necessary; and shall have power to make such bye-laws, rules, orders and regulations, not inconsistent with the constitution or laws of this State or of the United States, as shall be necessary for the well ordering the affairs of the said corporation: *Provided*, that no person shall have more than twenty votes, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote, for every share by him held under the said number.

Subscription to stock.

Election of directors.

And be it further enacted, That the said president and directors may continue to receive subscriptions to the stock of the said corporation, until there shall be eight hundred shares subscribed, and shall have power to appoint such agents, clerks, workmen and others under them as shall be necessary for executing the business of the said corporation.

Capital stock; officers and agents.

And be it further enacted, That the said corporation by the president and directors, or by any agent, superintendant, artist or other person employed in their service, may enter into any land, where they shall deem it proper to construct the said road, and to lay out and survey such routes or tracts as shall be most practicable for effecting a good and

Entry on lands; damages.

sufficient road between the places aforesaid : And the said president and directors may contract with the owners of the said land, for the purchase of so much thereof as shall be necessary for the purpose of making the said road, and for erecting and establishing a gate, toll-house and all other works to the said road belonging, and with their carriages, beasts, tools and implements, to enter in and upon any land contiguous to the said road, and to carry away any timber, stones, gravel, sand or other earth, being more conveniently situated for making or repairing said road, and to use the same for carrying on said work, the said president and directors paying the owner or owners of the land so to be laid out, as part of the road, the value of the land, or the materials aforesaid, as the case may be, together with such reasonable sum for damages as may be agreed on ; and in case of disagreement between the parties, as to the said value or damages, the same shall be determined by an appraisement, to be made on oath of three, or if they disagree, of two indifferent freeholders to be mutually chosen ; or if the owners of said land or materials, refuse or neglect, to join in the choice, to be appointed by any justice of the peace of the county in which the lands or property shall be : Provided, the said justice shall not be interested in the said dispute.

**Manner of
construct-
ing road.**

And be it further enacted, That the said president, directors and company, shall cause a road, to be laid out at least four rods wide, twenty four feet of which shall be bedded with wood, stone, gravel or any other hard substance compacted together a sufficient depth, to secure a solid foundation to the same ; and the said road shall be faced with gravel or other hard substance, in such manner as to secure, as near as the materials will admit, an even surface, rising towards the middle, by a gradual arch ; and they shall during the continuance of this act, maintain and keep the same in good order, from the said Henry Platt's to the intersection of the Rensselaer and Columbia turnpike road aforesaid.

**License by
governor.**

And be it further enacted, That as soon as the said president, directors and company shall have completed the said road, then it shall be lawful for the president, directors and company, to give notice to the governor of this State, who shall thereupon forthwith nominate and appoint two or three judicious persons to view the same, and report to him in writing, whether the said road is so far executed in a workmanlike manner, according to the true intent & meaning of this act ; and if the report is in the affirmative, then it shall be lawful for the governor, and it is hereby made his duty, by licence under his hand and the privy seal of this State, to permit the said president, directors and company, to erect one gate and turnpike across said road, in such part thereof as they shall think proper ; and receive the toll at the rates herein after mentioned.

**Rates of
toll.**

And be it further enacted, That as soon as said road shall be completed, and permission to erect a gate as aforesaid be granted ; the president and directors, may appoint a toll-gatherer, to collect and receive of and from all and every person or persons, using the said road, the tolls and duties herein after mentioned, and no more ; that is to say, for every score of sheep, six cents ; for every score of hogs, six cents ; for every score of cattle, horses or mules, eighteen cents, and so in proportion for any greater or lesser number of sheep, hogs, cattle, horses or mules ; for every horse and rider or led horse, four cents ; for every sulkey, chair or chaise, with one horse, ten cents ; for every cart, drawn by one horse, four cents ; for every chariot, coach, coachee or phaeton, twenty two cents ; for every stage, waggon or other four wheel carriage, drawn by two horses, mules or oxen, ten cents, and two cents for every

additional horse, mule or ox; for every cart drawn by two oxen, ten cents, and for every additional horse or ox, two cents; for every sled or sleigh, if drawn by two horses or oxen, six cents, and in like proportion, if drawn by a greater or less number of horses or oxen; and it shall be lawful for the toll-gatherer to stop any person riding, leading or driving any horse, cattle, sheep or hogs, sulkey, phaeton, coach, coachee, chair, chaise, cart, waggon, sleigh or other carriage of burthen or pleasure, from passing thro' the gate or turnpike, until they shall have respectively paid the toll as above specified: *Provided*, that nothing in this act shall be construed, so as to entitle the said corporation to demand or receive, toll of or from, any person passing to or from publick worship or to or from his common business on his farm, or to or from any mill.

And be it further enacted, That if any person or persons shall cut, break down or destroy, the gate or turnpike, which shall be erected in pursuance of this act, or shall forcibly pass the same, without having paid the legal toll at such gate or turnpike, such person or persons shall forfeit and pay, a fine not exceeding ten dollars, nor less than one, to be recovered by the treasurer of the corporation, to their use, in an action of trespass; and if any person shall with his team, carriage or horse, turn out of said road to pass the said gate on ground adjacent thereto, and again enter on the said road with intent to avoid the toll due by virtue of this act, such person shall forfeit and pay, three times as much as the legal toll would have been, for any such person in passing thro' said gate, to be recovered by the treasurer of the said corporation, for the use thereof, in an action of debt.

Injury to
gates,
evading
toll.

And be it further enacted, That if any toll-gatherer shall unreasonably delay or hinder any traveller or passenger at said gate, or shall demand or receive, more toll than is by this act established; he shall for every such offence, forfeit and pay, the sum of two dollars, for the sole use of the person so unreasonably hindered, or attempted to be defrauded. The above forfeitures and fines to be prosecuted for and recovered, before any justice of the peace of the county, where such offence shall be committed.

Unreason-
able delay.

And be it further enacted, That the shares in the said turnpike road, shall be taken, deemed and considered to be personal estate, and shall and may be transferable; and the transfers of the said shares, shall be made and entered on the books of the said president, directors and company.

Transfer
of stock.

And be it further enacted, That the president and directors of the said corporation, shall keep a just and fair account of all monies received by the collector of the toll on said road, and shall make and declare a dividend of the profits and income (all contingent costs and charges being first deducted) amongst all the stockholders of the said corporation, and shall on the second Tuesday of January and July in each year, publish the half yearly dividend, to be made of the said clear profits, among the stockholders, and of the times and places when and where the same will be paid, and shall cause the same to be paid accordingly.

Dividends.

And be it further enacted, That the said president and directors, shall within six months after the said road is completed, lodge in the comptroller's office of this State, on account of the expense thereof, and the corporation shall annually exhibit to the comptroller a true account or dividend of all the income arising from said toll, with the annual disbursements on said road.

Statement
to be filed
with comp-
troller.

And be it further enacted, That the legislature may dissolve the said corporation, when the income arising from said toll, shall have fully compensated the said corporation, for all monies they may have

Dissolution
of corpora-
tion.

expended in purchasing, making, repairing and taking care of said road, together with an interest thereon of fourteen per centum per annum; and thereupon the right, interest and property of said road, shall be vested in the people of this State, and be and remain at their disposal. *Provided*, that if the said corporation shall not commence their operations on the said road, within two years after the passing of this act, or shall not within five years after the passing of this act, complete the said road, according to the true intent and meaning of this act; then and in either of these cases, this act shall cease, be void and of none effect.

And be it further enacted, That the said corporation shall cause to be affixed to the said gate or turnpike, a printed list of the rates of toll, which may be lawfully demanded.

Rates of
toll to be
posted.

CHAP. 120.

AN ACT to establish a turnpike corporation for making and improving a road from the village of New Windsor to Blooming Grove.

PASSED the 3d of April, 1801.

New Windsor and
Blooming
Grove
Turnpike
Road
Company.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That John Chandler, Richard Goldsmith, William Adams, James Carpenter, William A Thompson, Abraham Schultz, Hezekiah Howell, Johannes Decker, Jonathan Brooks jun., Thomas A Thompson, Isaac Schultz and John Gale junr., and all such persons as shall associate for the purpose of making a good and sufficient road from the village of New Windsor, in the county of Orange to the intersection of the Goshen and Warwick roads near the house of Richard Goldsmith in the town of Blooming Grove, running as near the present road as circumstances will admit, shall be and hereby are created and made a corporation and body politic, in fact and in name, by the name of "The President Directors and Company of the New Windsor & Blooming Grove Turnpike Road," and by that name they shall be capable in law to purchase, have, hold, enjoy and retain, to them & to their respective successors, lands, tenements, hereditaments goods, chattels and effects of every kind whatsoever, and the same, or any part thereof, to sell, grant, demise alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in courts of record, or any other place whatsoever: *Provided however*, that the amount of the real estate which the said corporation are hereby authorized to purchase and hold, shall not exceed three thousand dollars: *And provided further*, that such estate so to be purchased and held, shall be necessary to fulfil the end and intent of the corporation hereby created and made and to no other use intent or purpose whatsoever.

And be it further enacted, That John Chandler, Jonathan Brooks, David M. Westcott, John D. Nichol and Joseph Morell, be, and they are hereby appointed commissioners to do and perform the several duties herein after mentioned, that is to say: They shall on or before the first day of June next procure five books, and in each of them enter as follows: "We whose names are hereunto subscribed, do, for ourselves and our legal representatives, promise to pay the President, Directors and company of the New Windsor and Blooming Grove Turnpike Road the sum of twenty five dollars for every share of stock in the said company set opposite to our several and respective names, in such manner

Subscription to
stock.

and proportion and at such time and place as shall be determined by the said president, directors and company ; " one of which books shall be left with each of the said commissioners at their respective places of abode, who shall keep the same open for the purpose of receiving subscriptions; and every subscriber shall at the time of subscribing, pay unto either of the said commissioners the sum of five dollars for each share so subscribed and the said commissioners shall as soon as one hundred shares have been subscribed, cause an advertisement to be inserted in the public news papers published in the town of Goshen or New Burgh, giving at least twenty days notice of the time and place the said subscribers shall meet for the purpose of choosing thirteen directors, who shall be stockholders, for the purpose of managing the concerns of the said company for one year, and the day of choosing the said directors shall thereafter be the anniversary day for choosing directors; and the said directors, elected by a plurality of the votes of the stockholders present, and of those who appear by proxy shall immediately proceed to the choice of one of their number for president; by ballot and the said president and directors shall and may meet from time to time, and at such times and place as they may, by their by-laws, rules, orders & regulations, not inconsistent with the constitution or laws of this State, or of the United States, deem necessary for the well ordering the affairs of the said corporation: *Provided*, that at the election of directors no person shall have more than twenty votes, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under the said number.

Action of directors.

And be it further enacted, That if at any meeting of the directors of said turnpike corporation, the president thereof shall not attend, then and in such case it shall and may be lawful for the directors of such corporation to appoint a president for the time being.

President.

And be it further enacted, That the said president and directors may continue to receive subscriptions to the stock of the said corporation until there shall be three hundred shares subscribed; they shall have power to appoint such officers, agents, clerks, artists, workmen & others, under them, as shall be necessary for executing the business of the said corporation.

Capital stock; officers and agents.

And be it further enacted, That the said corporation, by the president and directors, or by any agents, superintendants, artists, or other persons employed by them, may enter into any lands where they may deem it proper to construct said road, and to lay out, survey and labour on such routes or tracts as shall be most eligible for a good and sufficient road between the places aforesaid and contract with the owner or owners for the purchase of so much thereof as may be necessary for making said road, and erecting and establishing gates, toll-houses, and all other works to the said road belonging; and in case of disagreement between the said parties respecting the damages to be done to said land, or if the owner or owners thereof shall be females, covert, insane, or under age, or out of the State then it shall and may be lawful for the said president, and directors to apply to one * the judges or assistant justices of the court of common pleas in and for the said county of Orange, not interested in the said road, who is hereby authorized and required to nominate, and by an instrument in writing, signed by him, to appoint three commissioners, being freeholders of the said county, and who shall not be inhabitants of any of the towns through which the said road shall pass; and it shall be the duty of the said president and directors to cause a

Lands may be taken; appraisal of value.

* So in original.

copy of such appointment to be served on each of the said commissioners, who shall thereupon name a day for meeting on the said lands and performing the duties required of them by this act, and also to give notice to the owner or owners of such land of the said appointment, and the day, being at least four days from the time of giving such notice, when and where the commissioners will meet for the purpose of examining the lands and assessing the damages (except the owner or owners shall labour under any of the disabilities aforesaid, or be absent, in either of which cases a copy may be left at the dwelling house of the party (if any) or other notorious place on the land through which said road shall pass); and further, each of said commissioners shall, before he proceeds to exercise the trust reposed in him by this act, take and subscribe an oath before one of the justices of the peace in and for said county, that he will, without favour or partiality, estimate and assess the damages which may be sustained by the owner or owners of any lands or improvements which the said corporation may deem necessary for the said road, and the commissioners shall then proceed to view the premises, and having determined the damages shall make an inquisition under their hands and seals, or the hands and seals of any two of them, stating the amount of damages, if any, which each or any of the owner or owners of any parcel of land used or to be used for said road, have sustained or shall sustain which inquisition shall be acknowledged by the commissioners signing the same before one of the judges aforesaid, and filed, together with the affidavit aforesaid, in the office of the clerk of the said county of Orange, who shall, at the expence, cost and charges of the president and directors aforesaid, enter the same of record in the book kept by him for recording deeds, and the said corporation paying to the several owners of said lands the several sums awarded by such inquisition, shall have and hold, to them, their successors and assigns forever, the lands and tenements described therein; and the president and directors aforesaid shall pay to the judge who made the appointment of said commissioners, two dollars for his services, and to each of the said commissioners for every day necessarily attending the duties required of them by this act, two dollars and fifty cents.

Entry on
lands;
damages.

And be it further enacted, That it shall and may be lawful to and for the president, directors and company of the said corporation and their superintendants, artists, workmen, and labourers, with carts, waggons and other carriages with their beasts of draft and burthen, and all necessary tools and implements, to enter upon the lands contiguous or near to the said road, first giving notice of such intention to the owners or occupants thereof, and doing as little damage thereto as possible, and repairing any breaches they make in the inclosures thereof, and making amends for any damages that may be sustained by the owners or occupants of such ground or improvements, by appraisement in manner herein after directed, and upon a reasonable agreement of the owners or occupants, if they can agree, or if they cannot agree, then upon an appraisement to be made upon the oaths of three indifferent freeholders to be mutually chosen, or of any two of them, or if the owner or occupants neglect or refuse to join in the choice, to be appointed by any justice of the peace of the county, and on tender of the appraised value, to take any timber, stone, gravel, sand or earth, being most conveniently situated for making and repairing the said road & turnpike, and to use the same in carrying on said work.

Manner of
construct-
ing road.

And be it further enacted, That the said president, directors and company shall cause a road to be laid out at least four rods wide, eighteen feet at least of which shall be bedded with wood, stone, gravel or any

other hard substance well compacted together a sufficient depth to secure a good and solid foundation to the same; and the said road shall be faced with gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as near as the materials will admit, an even surface, rising towards the middle by a gradual arch; and they shall during the continuance of this act, maintain and keep the same in good and perfect order.

And be it further enacted, That as soon as the president, directors and company shall have perfected the said road from either end of said road, not less than five miles and so from time to time any other like distance progressively, they shall give notice thereof to the governor of this state, who shall thereupon forthwith nominate and appoint three skilful and judicious persons to view the same and report to him in writing, whether the said road is so far executed in a masterly & workmanlike manner, according to the true intent and meaning of this act; and if they report in the affirmative, then it shall be lawful for the governor, by licence under his hand and the privy seal of the state, to permit and suffer the said president, directors and company to erect and fix such and so many gates or turnpikes upon and across the said road as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said corporation from all persons travelling the same: *Provided always*, that there shall not be more than three gates in the whole distance of the road above mentioned. License by governor.

And be it further enacted, That as soon as such road is perfected, or such part thereof as aforesaid, and the same being examined and licenced in manner aforesaid, it shall and may be lawful for the president, directors and company to appoint toll-gatherers to collect and receive from all and every person or persons using the said road, the tolls and duties herein after mentioned, that is to say, for any number of miles not less than ten, the following sums of money, and so in proportion for any greater or less distance, to wit: For every score of sheep, eight cents; for every score of hogs, eight cents; for every score of cattle, eighteen cents; for every horse and rider, or led horse, five cents; for every sulkey, chair or chase with one horse and two wheels twelve cents and an half; for every chariot, coach, coachee or phaeton, twenty five cents; for every stage waggon or other four wheeled carriage drawn by two horses, and for every cart drawn by two oxen, twelve cents and an half, and three cents for every additional horse; for every sleigh and sled, six cents, if drawn by two oxen or two horses, and in like proportion if drawn by a greater or lesser number of horses or oxen; and it shall be lawful for any of the said toll gatherers to stop any person riding, leading or driving any of the herein enumerated articles from passing through the said gates or turnpikes until they shall have respectively paid the toll, not exceeding the rates above specified: *Provided always*, that it shall and may be lawful for any person or persons residing within five miles of any of the said gates or turnpikes to be erected on the said road, to compound by the year with the president and directors of the said corporation for the privilege of using the said road, and passing through the said gates or turnpikes; and in case any such person or persons shall not be able to agree with the said president and directors upon the rate of composition, the same shall be determined in the manner provided by the fifth section of this act for ascertaining the value of lands that may be included in such road, except that it shall not be necessary for the inquisition or award of the commissioners to be acknowledged and recorded. Rates of toll.

Evading toll.

And be it further enacted, That if any person who shall use the said road shall, with a view to evade the payment of the tolls required by this act, leave the said road or go round the said gates, every such person shall, for every such offence, forfeit and pay to and for the use of the president, directors & company aforesaid the sum of ten dollars, to be sued for in their names before any justice of the peace by action of debt to be recovered with costs of suit.

Unreasonable delay.

And be it further enacted, That if any of the toll gatherers shall unreasonably delay or hinder any passenger or traveller at any of the gates, or shall demand or require more toll than is by this act established, he shall for each and every offence forfeit and pay the sum of two dollars, to be recovered in manner & form aforesaid, with costs of suit, in the name & for the benefit of the party delayed, hindered or defrauded, besides all special damages accruing to the person so stopped or delayed.

Transfer of stock.

And be it further enacted, That the shares in the said turnpike road shall be taken, deemed and considered to be personal estate, and shall and may be transferable, and all such transfers, shall be made and inserted in the books of the said president, directors and company.

Milestones.

And be it further enacted, That the said corporation shall cause mile stones to be placed on one side of the said road in its whole extent, whereon shall be marked in legible characters the respective number of miles from the place of commencing the said road, and also shall cause to be affixed up in a conspicuous place at each gate or turnpike a printed list of the rates of toll.

Dividends.

And be it further enacted, That the said corporation shall cause to be kept a fair and just account of all monies received for toll on the said road, and shall make and declare a dividend of the clear profits and income (all contingent charges being first deducted) amongst all the stockholders of the stock of the said corporation, and shall, on the second Tuesday in January and July in every year, publish the half yearly dividend to be made of the said clear profits, and the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Statement of corporation to be filed.

And be it further enacted, That the said corporation shall, within six months after the said road is completed, lodge in the office of the comptroller an exact account of the expences thereof, and the said corporation shall annually exhibit to the comptroller a true account of the dividends made and arising from the said toll with the annual disbursements on said road.

Dissolution of corporation.

And be it further enacted, That the comptroller shall and he is hereby required to report to the legislature whenever it shall appear, from the accounts so to be exhibited to him, that the income arising from the said toll shall have fully compensated the said corporation for all monies they have expended in purchases, making, repairing, taking care of the said road, and for all other expenditures thereon, together with an interest of fourteen per cent. by the year. And thereupon the said corporation shall be dissolved, and the interest and property of the said road shall be vested in the people of this State. *Provided,* that the said corporation shall not proceed to commence work on the said road within two years after passing this act, and shall not within five years thereafter complete the said road according to the intent and meaning of this act, then, and in either of these cases this act shall cease, be void and of no effect. *Provided always,* that nothing in this act contained shall authorize the toll gatherers appointed under this act, to ask, receive or take any toll from any person whatsoever for passing said gates or any of them, who

are either going to or returning from public worship, or who are going to or returning from a funeral, or who are going to or returning from any mill with grain, flour or meal for the use of his family only.

CHAP. 121.

AN ACT relative to the State prison.

PASSED the 3rd of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the public building erected in the city of New York for the reception of convicts shall be called the State prison, and that the person administering the government of this State by and with the advice and consent of the council of appointment shall as often as shall be requisite, appoint, such number of persons for the said prison not exceeding seven as shall be necessary to form a board of inspectors therefor, that the inspectors shall meet at the prison once at least in every month, and oftener if necessary, or if required by the visiting inspectors herein after mentioned, and that the said inspectors, together with the justices of the supreme court, the mayor and recorder of the city of New York, the attorney general, and the district attorney for the district in which the said city shall be comprehended, or any two of them, shall have power from time to time, to make such rules as they shall deem proper for the government of the convicts confined in the said prison, their diet, cloathing and maintenance, and for all other the interior regulations of the said prison, not inconsistent with the laws and constitution of this State, and the intention of this act, and the said inspectors shall appoint two or more of their members to be visiting inspectors, and renew such appointment at least once in every month, and whose duty it shall be to visit the prison once at least in every week. —

And be it further enacted, That the inspectors shall have the charge and custody of the prison, and of the prisoners therein, and that they may appoint and employ under them a principal keeper; and also as many assistant keepers as they shall deem proper, and designate one of the said assistant keepers as the deputy keeper; and whenever there shall happen to be no principal keeper, all the duties and powers of principal keeper shall devolve on and be executed by the deputy keeper, until a principal keeper shall be appointed; and all writs of habeas corpus to be granted in behalf of any person confined in the said prison, shall be directed to and returned by the keeper of the said prison and the said principal keeper, shall receive for his services at and after the rate of eight hundred and seventy five dollars annually, and the deputy keeper of the said prison for his services at and after the rate of four hundred dollars annually, and said assistant keepers respectively for their services at and after the rate of two hundred and fifty dollars annually, to be paid quarter yearly by the inspectors, and to that end the said inspectors, shall quarter yearly transmit an account of the salaries due to the keeper and each of the assistants respectively, to the comptroller who shall thereupon issue his warrant to the treasurer, to pay the amount thereof to the said inspectors, and the treasurer shall pay the same out of any money then in the treasury.—

State
prison;
inspectors.

Duty of
inspectors.

Support of
convicts;
accounts.

And be it further enacted, That it shall and may be lawful for the inspectors of the State prison, either by themselves or by an agent or agents to be by them from time to time appointed, to purchase such cloathing, bedding, provisions, tools implements, raw or other materials, on which to employ the convicts, and generally whatsoever else may be requisite and incident to the execution of the trust conferred on the said inspectors by this act; and shall cause to be kept regular accounts of all the articles, so to be purchased and of the avails arising on the sales of any articles manufactured by the convicts in the said prison, and shall also cause separate accounts to be opened for each of the convicts, who shall from time to time be committed to the said prison, in which account the convict shall be charged with the expence of prosecution, cloathing, bedding and subsistence and with a due proportion of the expence of the raw materials and implements upon which and with which such convict may be employed, and to credit such convict with the avails arising from any labor by him or her performed in such sums as they shall deem just and right and if such credit shall exceed the debit side of the account, it shall be in the discretion of the inspectors when such convict is discharged to give such convict a part or the whole of such excess, and if the whole is not given, to carry the residue to the credit of the State, together with the whole of such excess, if any convict is sentenced to imprisonment for life and does not obtain his discharge by pardon from the executive.—

Conveying
prisoners.

And be it further enacted, That in all cases where any person shall be adjudged to imprisonment in the State prison by virtue of this act, all expences and charges to arise in conveying such offender to the same, and also the sustenance and safe keeping of such offender therein, shall be defrayed out of the treasury of this State.—

Copy of
sentence
to be deliv-
ered to
keeper.

And be it further enacted, That when any person shall be sentenced to imprisonment in the State prison, the clerk of the court shall make and deliver a copy of the sentence to the sheriff, who shall when he conveys such convict to the same, deliver the same copy with the prisoner to the keeper thereof, and the said keeper shall thereupon pay the said sheriff for conveying such convict to the said prison eighteen cents a mile to be computed from the place where such prisoner was convicted, and shall deliver the account thereof to the inspectors, who shall thereupon repay the said keeper out of any monies in their hands.—

Power of
sheriff in
conveying
prisoners.

And be it further enacted, That the sheriffs of the several counties within this State, during the time that they or either of them shall be conveying to the said prison, any person convicted in any of the counties within this State according to this act, shall have the same power and the like authority to demand the assistance of any of the people of this State in securing every such person as if such sheriff were in the county for which he is appointed sheriff, and all persons shall be aiding and assisting such sheriff under the same penalties as if such sheriff was in his proper county.—

How pris-
oners
clothed
and em-
ployed.

And be it further enacted, That all such convicts as aforesaid, who shall be sentenced to imprisonment in the State prison, shall be clothed in habits of coarse materials, uniform in colour and make, and be sustained upon inferior food at the discretion of the said inspectors, and shall be kept as far as may be consistent with their sex, age, health and ability to hard labor, in such manner as the inspectors shall deem just and right, and if the work to be performed is of such a nature as may require previous instruction, and neither the keeper or assistants can give instruction therein proper persons for that purpose, to whom a suitable allowance shall be made, shall be provided by the visiting

inspectors to be appointed by virtue of this act, during which labor the said offenders, shall be kept separate from each other, if the nature of the employments will admit thereof, and where the nature of such employment requires two or more to work together, the principal keeper or an assistant shall if possible be constantly present.—

And be it further enacted, That the principal keeper of the said prison, shall have power to punish all convicts for assaults, profane cursing and swearing, or indecent behaviour idleness or negligence in work, or wilful mismanagement of it, or of disobedience of any lawful orders or regulations, by confining such offenders in the solitary cells of the said prison, and by keeping them on bread and water only for such term as any two of the said inspectors shall judge proper and necessary.—

Power of
keeper.

And be it further enacted, That if the principal keeper of the said prison, or his assistants or servants, or other person whatever shall introduce into, or give away or barter or sell within the said prison any spirituous or fermented liquors (excepting only such as the said keepers shall use in their own families, or such as the inspectors thereof may permit, or such as may be required for any prisoner in a state of ill health, and for such purpose prescribed by an attending physician) such person shall forfeit and pay the sum of twelve dollars and fifty cents to be recovered with costs of suit, by any person who shall sue for the same, before any justice of the peace of the county the one moiety of which forfeiture shall when recovered be retained by the person recovering the same and the other moiety to be paid to the inspectors for the purposes in this act contained.—

Use of liq-
uors pro-
hibited.

And be it further enacted, That the persons authorized to visit and inspect the prison at pleasure, shall be the governor, lieutenant governor, chancellor, judges of the supreme court, and mayor recorder, attorney general, district attorney, and such ministers of the gospel as actually reside in the said city and have charge of a church or congregation therein; and no other person shall be permitted to enter within the walls where the convicts shall be confined without a written licence signed by two of the inspectors.—

Visitors.

And be it further enacted, That the inspectors shall from time to time appoint a physician to attend the prison who shall receive a compensation for his services to be determined by the inspectors. *And further* that every duty enjoined on the board of inspectors, may be executed by a majority of the board, or the majority of such of them as shall be in office.

Physician.

And be it further enacted, That the inspectors may at their discretion cause such convicts as may require it, to be inoculated for the small pox; and that it shall be lawful for the said inspectors whenever it shall be certified to them by the physician of the said prison that the preservation of the health or life of a criminal, adjudged to solitary confinement therein renders it necessary to remove the said criminal from such confinement, to remove and employ, or dispose of him or her in the said prison, as they may think proper; and upon the recovery of the said criminal, he or she shall be returned to such solitary confinement.

Health of
prisoners.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty, of the said city in common council convened, to designate such of the firemen, of the said city as they shall deem proper to be the firemen attached to the State prison, and to that end, to increase the number of firemen of the said city as they shall judge necessary for that purpose; and it shall be the duty of the said firemen so attached to repair to the said prison upon any signal being given of a fire in or about the same, or of any disturbance, therein or attempt to escape therefrom, and then subject themselves to the orders of the

Firemen
attached
to prison.

keeper of the said prison or the inspectors, or either of them, for the suppression of disturbances, prevention of escapes, and the extinguishment of fires.—

Accounts
to be ren-
dered.

XIV. *And be it further enacted*, That the inspectors shall account annually with the comptroller, for the expenditure of all monies, received by them in the execution of their trust and shall deliver their accounts to the comptroller to be audited on or before the third Monday of January in every year.

Compensa-
tion of
agent.

And be it further enacted, That the agent employed in purchasing materials for the use of and disposing of the articles manufactured in the said prison shall be allowed at and after the rate of one thousand five hundred dollars a year as a compensation for his services including clerk hire and stationary, which salary shall be paid out of the avails arising on sales of articles manufactured by the convicts in the said prison.

Branding
of prison
made
goods.

And be it further enacted, That all boots, bootees, shoes and slippers made in the said prison shall be stamped on the most convenient part of the outer sole of every such boot, bootee shoe or slipper with the words "State prison," and that no boots, bootees, shoes or slippers, other than those actually made in the State prison and thus stamped shall be sold in the State prison or in any ware house established under the direction of the inspectors of the State prison in the city of New York.

Counter-
feiting
brand
marks.

XVII. *And be it further enacted*, That if the keeper or clerk or any person employed in the said prison, or in such ware house, shall expose to sale any boots, bootees, shoes or slippers not made in the State prison, and so stamped shall forfeit, for every such offence fifty dollars and if any person shall counterfeit said stamp or shall expose to sale any boots, bootees, shoes or slippers with such counterfeit stamp knowing the same to be counterfeit such person shall forfeit for every such offence one hundred dollars to be recovered by action of debt, by any person who will prosecute for the same before any court having competent jurisdiction with costs of suit.

Expenses
of prisons.

And be it further enacted, That the said inspectors shall pay out of the monies arising on the sales of articles manufactured in the said prison, such sums as may be requisite from time to time for the support of the prisoners and the expences of conveying them to the said prison and other necessary expences not specially provided for.

Corre-
spondence
of pris-
oners.

And be it further enacted, That it shall be deemed an offence against the people of this State for any assistant keeper of the said prison, or any servant or workman employed in or about the said prison, or for any other person to convey out of or bring into the said prison, by request, desire or procurement of any prisoner confined in the said prison, or by any other person, any letter or writing whatsoever, without leave of the inspectors or of one of them so to do, and it shall also be deemed an offence against the people of this State for any assistant keeper or any servant or workmen employed about the said prison, or for any other person not permitted by law ex officio to visit the said prison without such leave as last aforesaid, to make any verbal or parol communication between any person confined in the said prison and any person not a prisoner in the said prison and not belonging thereto, and not having a right ex officio, to visit the same.

State
prison
guard.

XX. *And be it further enacted*, That the person administering the government of this State shall forthwith cause to be raised a guard which shall be called, "the State prison guard, and shall consist of one captain, one sergeant, two corporals one drummer, one fifer and not more than twenty privates, who shall all be native Americans, and not less than twenty one nor more than forty years of age, and shall engage them-

selves for the term of three years at least; *provided however* that the person administering the government may discharge them sooner if he shall think proper so to do.—

And be it further enacted, That the monthly pay of the said guard shall be as follows, that of the captain shall be forty dollars, that of the sergeant twenty five dollars, that of the corporals twenty two dollars and that of the privates nineteen dollars which shall be in lieu of every compensation, except the articles to be furnished to them as is hereinafter mentioned. Pay of guards.

And be it further enacted, That the said non commissioned officers and privates shall be furnished with necessary arms ammunition and accoutrements at the expence of the State, which arms and accoutrements shall be delivered to the inspectors of the said prison at the expiration of their several terms of service, and shall wear such uniform as the person administering the government for the time being shall direct, and shall also annually receive the following articles of uniform cloathing to wit, one hat, one coat, one watchcoat, one vest, two pair of woolen and two pair of linen over-alls, four pair of shoes, four shirts, four pair of socks, one blanket, one stock and clasp, and one pair of buckles.— Equipments.

XXIII. *And be it further enacted*, That for the accommodation of the said guard, a barrack shall be erected near the said prison under the direction of the mayor of the said city, and upon such plan, and construction as he shall think proper, and the treasurer of this State shall from time to time pay to the order of the said mayor on the warrant of the comptroller the sum or sums therein mentioned for defraying the expence of erecting the said barrack, *provided* that such sums shall not exceed in the whole one thousand dollars.— Barracks.

And be it further enacted, That the said guard shall be stationed at or near the said prison and shall be under the direction of the mayor of the said city, and shall obey all such orders, rules and regulations as he may from time to time give or make for their better and more effectual guarding of the said prison, for preventing escapes therefrom, and for apprehending such of the convicts as may have effected their escape, *provided however* that it shall not be lawful for the said mayor to employ the said guard in any other way, or to exact any other service or duty from them than such as are herein before particularly mentioned. Direction of guard.

And be it further enacted, That if any non-commissioned officer or private shall desert from the said guard, he shall on conviction thereof by a jury, be sentenced to imprisonment in the said prison for a term not exceeding five years; *and further* that it shall be lawful for the mayor of the said city, on request in writing made by the inspectors of the said prison, or a major part of them to dismiss from the said guard any of the non-commissioned officers or privates of which he shall give immediate notice to the person administering the government, whose duty it shall be to cause every vacancy in the said guard by death or otherwise to be filled as soon as may be after the same shall happen. Desertion.

And be it further enacted, That the treasurer of this State shall from time to time pay to the inspectors of the said prison on the warrant of the comptroller such sums as it shall appear to the comptroller are necessary for the payment of the said guard and for the purchase of the arms, ammunition and accoutrements and the other articles with which they are to be furnished, as aforesaid.— Payments for guard.

And be it further enacted, That the person administering the government of this State by and with the advice and consent of the council of appointment shall appoin the captain of the said guard during the pleasure of the said council. Captain of guard.

CHAP. 122.

AN ACT supplementary to an act entitled "An act for settling the disputes and controversies between the persons claiming to be proprietors of a patent called Mawighnunk and the possessors of the lands in the town of Canaan."

PASSED the 3rd of April, 1801.

Preamble.

WHEREAS a joint petition as well of sundry persons possessing lands within the patent of Mawighnunk as of the agents of the proprietors of the said patent hath been presented to the legislature setting forth that since the passing of the act entitled "An act for settling the disputes and controversies between the persons claiming to be the proprietors of a patent called Mawighnunk and the possessors of the land in the town of Canaan" a majority of the commissioners appointed in and by the said act, have made a decision of the said controversy as appears by their award now of record in the secretarys office of this State; and that the boundaries of the said patent being ascertained by actual survey under the direction of the said commissioners the petitioners first above mentioned, possessing lands within the said boundaries, but who were not parties to the above recited act or named therein, have entered into articles of agreement with the aforesaid agents of the proprietors of the said patent, which agreement the petitioners are desirous should be confirmed by law and the petitioners having united in praying that an act for that purpose conformable to a bill presented by them may be passed, and the prayer of the said petition being deemed reasonable as calculated to prevent litigation and to extinguish controversies. Therefore.

Articles of agreement confirmed.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the said articles of agreement so made as aforesaid shall be and hereby are confirmed and declared to be valid and binding upon all the proprietors of the said patent claiming under the patentees shares mentioned in the said articles notwithstanding the infancy or coverture of any of the said proprietors which articles under the hands and seals of the parties thereto respectively are in the words and figures following to wit, "Articles of agreement indented between Peter Silvester, Abraham Vander Poel, John Pruyn and Peter Van Schaack for themselves and on behalf of the other proprietors of the patent of Mawighnunk representing the patentees shares of Cornelius Van Schaack, Johannes Van Deusen, Jacobus Van Rensselaer, John Baptist, Van Rensselaer and nine tenths of the shares of Barent Vosburgh of the one part, and Seth Hill, William Payne and Joseph Enos for themselves and on behalf of the following persons possessors of lands within the said patent vizt. Moses Jones, Jonathan Murdock, Noah Munroe, William Bentley, Aaron Webster, Nathaniel Gardner, Joseph Andrews, Nathan Wheeler, Edward Perry, Jesse Torry, William Dean, Samuel Perry, George Dickinson, Isaac Burton and James Comerty of the other part made and concluded this seventeenth day of March one thousand eight hundred and one.—

First The parties of the second part agree to pay for the lands they possess within the bounds of the said patent as lately surveyed by Azariah Root, after the rate of four dollars and seventy five cents per acre; which payments shall be made in six equal annual instalments with interest from the date hereof, the first installment to become due

on the twenty seventh day of October next and the said payments to be secured in the manner prescribed with respect to other possessors within the said patent, by a certain act of the legislature entitled "An act for settling the disputes and controversies between the persons claiming to be proprietors of a patent called Mawighnunk and the possessors of the lands in the town of Canaan" passed the seventh day of April 1800, and the said payment shall be made to Peter Silvester and Peter Van Schaack and the survivor of them trustees for the like purpose as named by the commissioners in and by the said act; *provided* that it shall be lawful for the said parties of the second part or any of them to pay any of the said instalments before they became due and that from thenceforth the interest on such payment shall cease.

Secondly, Out of the number of acres possessed by the parties of the second part respectively shall be deducted the number of acres they respectively hold of the forfeited shares of William and Robert Bayard and Isaac Vander Poel, *provided* that this deduction shall not exceed forty acres in the whole.

Thirdly, The parties of the second part agree at their own expence to have surveys made of the lands possessed by them within the patent, but it shall be competent to the parties of the first part at their own expence to re-survey any of the said possessions in order to ascertain the number of acres, and it is understood that the surveys first mentioned shall be verified by oath.

Fourthly, It is understood that the parties of the second part respectively shall be answerable only for the sums charged upon the respective possessions of each the same to be ascertained by the said parties of the second part, among themselves, and to be communicated with all convenient speed to the parties of the first part.

Lastly Both parties mutually agree to unite in an application to the legislature for an act to carry this agreement into execution, which act shall contain a clause similar to the one in the act above referred to for vesting the title of the said lands in the possessors respectively upon the payment of the monies charged thereon, notwithstanding the infancy or coverture of any of the said proprietors.

In witness whereof the parties to these presents have hereunto interchangeably set their hands and seals the day and year first above written.

And be it further enacted, That when the said survey shall be completed, and the sums with which the possessors respectively are chargeable shall be ascertained, pursuant to the said articles, a paper writing importing the same shall be subscribed by the agents of the parties respectively and being proved or acknowledged, shall be filed in the clerks office in the county of Columbia and be admitted as evidence. —

Survey to be acknowledged and filed.

And be it further enacted, That upon the payment of the monies mentioned in the said paper writing with the interest by instalments according to the tenor of the said articles the said possessor shall hold and be seised and be deemed to hold and be seised of an estate in fee simple in the said land so possessed by him as aforesaid, and the right and title of all persons claiming under the said patent, shall thenceforth be extinguished; but if it shall so happen that the said monies shall remain due and unpaid in whole or in part at the expiration of the time limited for the last instalment, then the proprietor or proprietors or his or their agent may proceed to a sale of the land of the delinquent possessor or any part thereof at public auction in the manner and after the notice usual in cases of mortgages with clause for sale; and such sale shall be a bar both in law and equity to the possessor; and all who shall

Possessors to be deemed seized of lands upon payment.

claim by, from, or under him, or them. *Provided nevertheless* that if on such sale more money shall be made than is sufficient to satisfy the sum due with reasonable costs, the sum so remaining shall be paid to the possessor or delinquent.

Payments
may be
made in
advance.

And be it further enacted, That in case any of the said possessors shall pay any or all the said instalments before they respectively become due it shall be competent to and lawful for them so to do, and that from thence forth the interest on such payment shall cease, and the lands be exonerated from the sums so paid. —

Clause ex-
tended to
certain
other pos-
sors.

And be it further enacted, That the last preceding clause shall be and hereby is extended to the possessors named in the act above mentioned in as full and ample a manner as it does to the possessors named and intended by this act.

And whereas it hath been suggested that an agreement on behalf of the proprietors of the said patent hath been made with John Loudon also a possessor of lands within the said patent and that there are sundry other persons not named either in this act or in the former act possessing lands within the said patent who are inclined to enter into agreements with the said proprietors by them respectively : Therefore

Certain
other
agreement
confirmed
and ex-
tended.

Be it enacted, That as well the said agreement with the said John Loudon as any other agreement which shall be made, between the agents of the said proprietors of the one part, and possessors of lands within the said patent of the other part shall be and hereby is and respectively are confirmed so that he the said John Loudon and such other possessors as aforesaid shall and may severally have the benefit and effect of this act, as fully and amply as if he or they had been specially named therein, and that upon the fulfilment of such agreements, the said John Loudon and such possessor or possessors shall be deemed to hold and be seised of an estate in fee simple in the said lands so possessed by him or them respectively as aforesaid and the right and title of all persons claiming under the said patent shall thenceforth be extinguished, and in case of failure the said proprietors shall have the like remedy against them respectively as they have by this act against the persons herein before named. —

CHAP. 123.

AN ACT to divide this State into counties.

PASSED the 3rd of April, 1801.

Counties
of the
State of
New York.

I. Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the said State shall be and hereby is divided into thirty counties, to be called by the names of New York, Suffolk, Queens, Kings, Richmond, Westchester, Rockland, Orange, Ulster, Dutchess, Columbia, Rensselaer, Washington, Saratoga, Essex, Clinton, Green, Albany, Schoharie Delaware, Otsego, Montgomery, Herkimer, Chenango, Onondaga, Cayuga Tioga, Oneida, Steuben, and Ontario.

Bounds.

II. And be it further enacted, That the extent and limits of the said several counties shall be as follows.

New York.

The county of New York to contain the islands called Manhattan's island, Great Barn island, Little Barn island, Mannings island, Nutton island, Bedlows island, Bucking island and the Oyster islands, and all the land under the water within the following bounds ; beginning at Spyten Duyvel creek, where the same empties itself into the Hudson's river, on

the Westchester side thereof, at low water mark, wherever the same now is, or hereafter may be, and so running along the said creek at low water mark as aforesaid on the Westchester side thereof unto the East river, or Sound, and from thence to cross over to Nassau island, to low water mark there as aforesaid including Great Barn island, Little Barn island and Mannings island, and from thence along Nassau island shore, at low water mark as aforesaid, unto the south side of the Red Hook, and from thence across the North river, so as to include Nutten island, Bedlows island, Bucking island and the Oyster islands, to low water mark on the west side of Hudsons river, or so far as the bounds of this State extend there, and so up along the west side of Hudsons river, at low water mark, or along the limits of this State, until it comes directly opposite the first mentioned creek, and thence to the place where the said boundaries first began.

The county of Suffolk to contain all that part of this State, bounded Suffolk. easterly and southerly by the Atlantic Ocean, northerly by the Sound, and westerly by Lloyds neck or Queens village, Cold Spring harbour and the east bounds of the township of Oyster bay, and the same line continued due south to the Atlantic ocean, including the Isle of Wight, now called Gardiner's island, Fisher's island, Shelter island, Plumb island, Robin's island, Ram island and the Gull islands.

The county of Queens to contain all that part of this State, bounded Queens. easterly by Suffolk county; southerly by the Atlantic ocean; northerly by the Sound, and westerly by the west bounds of the townships of New town and Jamaica, including Lloyds neck or Queens village, and the islands called the Two Brothers and Hallet's island, and all islands in the Sound opposite to the said bounds and southward of the main channel.

The county of Kings to contain all that part of this State, bounded Kings. easterly by Queens county; northerly by the county of New York; westerly, partly, by Hudsons river and partly by the ocean, and southerly by the Atlantic ocean, including Coney island, and that the island on which the said three counties last mentioned are situated, shall continue to be called and known by the name of Nassau island.

The county of Richmond to contain all Staten island, Shooter's island, Richmond. and the islands of Meadow on the west side thereof.

The county of Westchester to contain all that part of this State, Westches-
ter. bounded southerly by the Sound, easterly by the boundary line between this State and the State of Connecticut, northerly by the north bounds of the manor of Cortlandt and the same line continued east of the boundary line between this State and the State of Connecticut, and west to the middle of Hudsons river, and westerly by a line running from thence down the middle of Hudsons river until it comes opposite to the bounds of the State of New Jersey on said river, then west to the same, then southerly along the east boundary line between this State & the State of New Jersey to the line of the county of New York, and then along the same easterly and southerly to the Sound or East river, including Captains island and all the islands in the Sound to the east of Frogs neck, and to the northward of the main channel.

The county of Rockland to contain all that part of this State, bound- Rockland. ed southerly and south westerly by the line of the county of Westchester where the same crosses Hudsons river, and the division line between this State and the State of New Jersey, easterly by the middle of Hudsons river, and northerly and north westerly by a line drawn from the middle of the said river west to the mouth of Poplopens kill, and from thence on a direct course to the east end of the mill-dam now or late of

Michael Weiman across the Ramapough river, and from thence a direct course to the twenty mile stone, standing in the said division line between this State and the State of New Jersey.

Orange.

The county of Orange to contain all that part of this State, bounded easterly by the middle of Hudson's river, southerly by the said county of Rockland and the division line between this State and the State of New Jersey, westerly by the river Mongaap and the division line between this State and the commonwealth of Pennsylvania, and northerly by a line drawn from a point in the middle of said Hudson's river opposite the north east corner of a tract of land granted to Francis Harrison and company, called the five thousand acre tract, to the same north east corner, and running from thence westerly along the north bounds of the same tract and the north bounds of another tract granted to the said Francis Harrison, to the tract of land commonly called Wallaces tract; then along the lines of the same northerly and westerly to the north easterly bounds of a tract of land granted to Jacobus Kip, John Cruger and others, commonly called Kip and Cruger's tract; then westerly along the north easterly and northerly bounds thereof to the north west corner thereof, and then westerly to the north east corner of a tract of three thousand five hundred acres of land, granted to Rip Van Dam and others; thence southerly along the same to the north east corner of a tract of three thousand acres granted to Henry Wileman, and running thence along the north bounds thereof to the Paltz river, commonly called the Wall kill; then southerly up the said river to the south east corner of a tract of four thousand acres of land granted to Gerardus Beekman and others; then westerly and northerly along the southerly and westerly bounds thereof, to the north west corner thereof, and then north westerly along the north bounds of the land granted to Jeremiah Schuyler and company, to the Shawangunk kill, thence south westerly along said kill to the north part of the farm now or late in the occupation of Joseph Wood junior; thence west to the said river Mongaap.

Ulster.

The county of Ulster to contain all that part of this State, bounded southerly by the north bounds of the county of Orange; easterly by the middle of Hudson's river; westerly by the Delaware river, and northerly by a line drawn from the Delaware river at the most southerly corner of lot number twenty eight, in the subdivision of great lot number two in the Hardenbergh patent, north sixty two degrees east to the south westerly bounds of great lot number eight in said patent; thence easterly to the north end of Shens lake, and the same line continued to the west bounds of the town of Kingston; thence northerly to the north west corner of the town of Kingston; thence along the north bounds of the same to Hudson's river; thence due east to the middle of said river.

Dutchess.

The county of Dutchess to contain all that part of this State, bounded easterly by the east bounds of this State; southerly by the county of Westchester; westerly by the counties of Orange and Ulster, and northerly by a due east line drawn from the south bank of the Sawyers kill on the west side of Hudson's river, continued due east till it meets with a line settled and established between Robert R. Livingston and Zachariah Hoffman deceased and others, as their mutual boundary so far as it respected them individually, and thence along the same as far as it runs, and thence the same course continued to the southernmost bend of Roeluff Jansens kill, and thence along the south and east line of the manor of Livingston, to the division line between the State and the commonwealth of Massachusetts, including the whole of the oblong to the northward of the county of Westchester.

The county of Columbia to contain all that part of this State, bounded **Columbia.** southerly by the county of Dutchess, westerly by the middle of Hudson's river, with such variations as to include all islands nearest to the east bank of said river; northerly by an east line from the southernmost part of Bearen island in Hudsons river, to the eastern bounds of this State, and easterly by the county of Dutchess and the said eastern bounds of this State.

The county of Rensselaer to contain all of that part of this State, **Rensselaer.** bounded southerly by the county of Columbia; westerly by a line drawn through the middle of the main stream of Hudsons river, with such variations as to include the islands lying nearest to the east bank thereof; northerly by a line beginning at the mouth of Lewis's creek, or kill, and running from thence south eighty four degrees east to the division line between this State, and the State of Vermont, and easterly by the eastern bounds of this State.

The county of Washington to contain all that part of this State, **Washington.** bounded southerly by the county of Rensselaer; easterly by the east bounds of this State; northerly by a due west line, drawn from the east bounds of this State so as to strike the most northerly point of the rock, commonly called Rogers's rock, situate on the west side of Lake George, continued due west until it intersects a line drawn from the Mohawk river, where the north east corner of the tract of land, granted by letters patent to George Ingoldsby and others, touches the said river, north one degree and twenty five minutes west, as the same has been lately run by order of the surveyor general; westerly by the line last mentioned, until it intersects a west line drawn from Fort George near Lake George, and by the line last mentioned until it strikes the north branch of Hudson's river, and by the middle of the said branch and of the main stream of said river, until it meets the north bounds of the county of Rensselaer, with such variations as to include all islands, lying nearest to the east bank of said river.

The county of Saratoga to contain all that part of this State, bounded **Saratoga.** southerly by the county of Albany; easterly by the counties of Rensselaer and Washington; northerly, by the county of Washington, and westerly by a line drawn from the Mohawk river, where the north east corner of the tract of land, granted by letters patent to George Ingoldsby and others, touches the said river, north one degree and twenty five minutes west.

The county of Essex to contain all that part of this State, bounded **Essex.** southerly by the county of Washington; easterly by the east bounds of this State; westerly by the west line of the counties of Saratoga and Washington, continued to a point opposite to the south line of a tract of three thousand six hundred acres of land granted to Mathew Adgate; northerly by a line drawn east from the said point, to the south line aforesaid until it intersects the great river Ausable; thence by the said river along the north bank thereof, to the forks of said river, thence by the south branch of said river along the north bank thereof, to Lake Champlain, and thence by a due east line to the east bounds of this State.

The county of Clinton to contain all that part of this State, bounded **Clinton.** southerly by the county of Essex and Totten and Crossfields purchase; easterly by the east bounds of this State; northerly by the north bounds of this State; and westerly by the west bounds of this State and the division line between great lots number three and number four of Macombs purchase continued to the west bounds of this State.

Greene

The county of Green to contain all that part of this State, bounded southerly by the county of Ulster and part of the county of Delaware, as hereafter described; easterly by the middle of Hudson's river; north and north westerly by a line drawn west from the southernmost part of Bearen island, in said river to the south west corner of the manor of Rensselaerwyck, and a line drawn from thence to the place where the line formerly run from the head of Katters creek issuing out of the southerly side or end of a certain lake or pond, lying in the Blue mountains, to a small lake called Utsayantho intersects the Schoharie creek, and westerly by the said county of Delaware.

Albany.

The county of Albany to contain all that part of this State, bounded northerly by a line, beginning at a point in the middle of Hudsons river, opposite to the middle of the most northerly branch of the Mohawk river; running thence through the middle of the said northerly branch and of the said Mohawk river westerly to the east bounds of the city of Schenectady; thence along the easterly and northerly bounds of the said city as the same are specified in the award of the commissioners appointed by the act entitled "An act for settling the line or lines of division between the town of Schenectady and the patent of Kayaderoseras" passed the nineteenth day of January one thousand seven hundred and ninety three, and filed in the office of the secretary of this State, to the north west corner of the said city; westerly by a line drawn from the said north west corner of the said city southerly to the Mohawk river opposite to the north east corner of a patent granted to George Ingoldsby and others, and thence running south westerly along the north bounds of the last mentioned patent, and of the patents granted to Walter Butler, to Thomas Freeman and to Alexander, Philip and William Cosby to the Schoharie creek; thence along the said creek and the Schoharie patent to the patent granted to Johannes Lawyer; then along the south bounds of the patent granted to Jonathan Brewer to the manor of Rensselaerwyck; thence along the west bounds of the said manor, to the south west corner thereof; southerly by the county of Green, and easterly by the county of Rensselaer.

Schoharie.

The county of Schoharie to contain all that part of this State, bounded easterly by the county of Albany, northerly by part of the south bounds of the county of Montgomery as hereafter described; westerly by a line beginning at the south west corner of a tract of land formerly granted to John Lyne, and running thence the following courses, and distances as marked by order of the surveyor general, south twenty one degrees and forty eight minutes west, two hundred and nineteen chains to the place where Joshua Tucker formerly resided; thence south seven degrees and forty eight minutes west, one hundred and ninety three chains to the easternmost line of the second allotment of a tract of land, known by the name of the Belvidere patent; thence south nine degrees east six hundred and ninety five chains, to a certain hill known by the name of Grovers hill; thence with a direct line from the most north westerly corner of Stroughburgh patent, thence with a direct line to the most northerly corner of Harpersfield on the Charlotte or Adegatangie branch of the Susquehanna river, thence south easterly along the north bounds of Harpersfield to the said Lake Utsayantho, and southerly by a line formerly run from the head of Kaaters creek, where the same issues out of the southerly side or end of a certain lake or pond, lying in the Blue mountains to the said Lake Utsayantho, and by part of the north bounds of the county of Green.

Delaware.

The county of Delaware to contain all that part of this State, bounded as follows, beginning on the east bank of the Delaware river, at the

most southerly corner of lot number twenty eight in the subdivision of great lot number two, in the Hardenbergh patent; then north sixty two degrees east, to the north easterly bounds of great lot number eight, in the said patent; then along the bounds of the said lot number eight north westerly to the south west corner of lot number twenty, in the said patent; then north easterly along the division line between lots number nineteen and said lot number twenty, and that line continued to the southerly bounds of the county of Albany; then along the same, and along the southerly bounds of the county of Schoharie to the Lake Utsayantho, then along the north bounds of a tract of land granted to John Harper and others, to the north west corner thereof, and the same line continued to the Adegatangie or Charlotte river; then down the waters thereof to the Susquehannah river; then down the waters thereof to the line of property; then southerly along the said line of property to the Delaware river; then down the waters thereof and along the division line between this State and the commonwealth of Pennsylvania, to the place of beginning.

The county of Otsego to contain all that part of this State, bounded Otsego. southerly by the county of Delaware, easterly by the county of Schoharie; northerly by a line beginning at the north west corner of the county of Schoharie, running thence westerly to the north east corner of a tract of land formerly granted to John Groesbeck, called Springfield; thence along the north bounds thereof and the same line continued to a line run from the Little Falls in the Mohawk river to the mouth of the creek on which the mills of Richard Cary are erected where the same creek empties itself into the waters of Lake Otsego; then southerly along said line to the southerly bounds of a tract of land formerly granted to Theobald Young; then along the southerly bounds thereof and the southerly bounds of a tract of land formerly granted to Rudolph Staley, to a tract of land formerly granted to William Bayard and others, called the Free Masons patent; thence southerly and westerly along the same to the Unadilla river, and westerly by the said Unadilla river from the place last mentioned, to its junction with the Susquehannah river.

The county of Montgomery to contain all that part of this State, Montgomery. bounded easterly by part of the west bounds of the county of Albany and by the west bounds of the counties of Saratoga, Washington, and Essex, northerly by the county of Clinton, southerly by a line drawn from the north east corner of the tract of land, granted by letters patent to George Ingoldsby and others, on the Mohawk river, and running thence south westerly along the county of Albany, to the south bounds of a patent formerly granted to John Bowen; thence south westerly along the same, to the tract known by the name of the old Schoharie patent; thence west along a line heretofore run as part of the northern boundary of the former county of Albany, to a place where the same is intersected by a line drawn north twenty five degrees east from a lake called Utsayantho; thence westerly to the south east corner of a tract of land formerly granted to William Cosby, thence westerly along the same and along a tract of land formerly granted to John Lyne, to the south west corner thereof; thence along the northern bounds of the county of Otsego, to a line run from the Little Falls on the Mohawk river, to the head waters of Lake Otsego; westerly by a straight line drawn from thence, to the east end of the easternmost lock of the canal, on the north side of the Mohawk river, at the Little Falls; thence north as the magnetic needle pointed in the year one thousand seven hundred and seventy two, to the southerly line of a tract of land called Jersey-

field; from thence a direct course to strike the line of division between two certain tracts of land, the one known by the name of Nobleborough, and the other by the name of Arthurborough; thence along the said line of division to the northerly bounds of the said tracts; thence a north course to the north bounds of this State.

Herkimer. The county of Herkimer to contain all that part of this State, bounded easterly by the county of Montgomery and part of the county of Otsego, southerly by the county of Otsego, westerly by a line beginning in the the south bounds of the patent granted to William Bayard and others, called the Free Masons patent, where the same is intersected by a line run south from the former fording place in the Mohawk river at Old Fort Schuyler, now called Utica; thence north along said line to the southerly line of Cosby's manor; thence north easterly a direct line to the northerly bounds of said Cosby's manor, at a point where the same is intersected by the division line between Gage's and Walton's patents, thence northerly on the line between the said Walton's and Gage's patents, to the West Canada creek; thence northerly up the waters of said creek to the forks thereof; thence easterly up the east branch of said creek, to the north east corner of Service's patent; thence north to the county of Clinton and northerly by the county of Clinton.

Chenango. The county of Chenango to contain all that part of this State, bounded westerly by the eastern boundaries of the tract of land called the military tract as the same have been run and marked by the surveyor general of this State, and by a line drawn from the south east corner of the said tract on a direct course to the confluence of the Tioughnioga and Chenango rivers and to the east bank of the last mentioned river; southerly by a line drawn from the place last mentioned along the eastern bank of the Chenango river to the north west corner of a tract of land granted to John Jay and others; thence along the north bounds thereof and the same line continued until it meets the west line of Clinton township; thence along the same south to the south west corner thereof; thence east along the south bounds thereof to the line of property; easterly by the west bounds of the counties of Delaware and Otsego; northerly by a line beginning at the Unadilla river, and at the south east corner of township number twenty of the twenty townships, so called, and running along the south bounds of the said township number twenty to the division line between the third and fourth quarters thereof; thence along the said division line to the north bounds thereof; thence along the north bounds thereof and of the said twenty townships, westerly to the south west corner of lot number fifty in the first allotment of a tract of land called New Petersborough; thence northerly on the west line of said lot number fifty and sixty nine, to the fourth line of New Stockbridge; thence the shortest line to the main branch of the Oneida creek; thence northerly down said creek to the Oneida lake; thence westerly along the southerly shore of Oneida lake, to the township of Cicero, in the said military tract.

Onondaga. The county of Onondaga to contain all that part of the tract of land in this State, commonly called the military tract, set apart for the use of the troops of the line of this State, lately serving in the army of the United States, which is bounded easterly by the county of Chenango, being the east bounds of the said tract; north and north easterly by the Oneida lake, and the Onondaga or Oswego river, issuing therefrom to the place where it empties into Lake Ontario; northwesterly by Lake Ontario from the mouth of the said river to the west line of the township of Hannibal, in the said military tract; westerly by the west and south bounds of said township to the township called Lysander; thence

on the west line of Lysander to Cross lake, in the Seneca river; thence in the straightest direction to that point where the west line of the township of Camillus touches the aforesaid river; thence on the west line of Camillus, to the south line thereof; thence easterly along the said south line to the north west corner of the township of Marcellus; thence along the westerly and southerly lines of the said township to the Skaneateles lake; thence southerly on the westerly shore of the same to the township of Tully; thence between the townships of Tully and Sempronius, Homer and Locke, Virgil and Dryden, to the south bounds of the said military tract; southerly by the south bounds of the townships of Virgil and Cincinnatus, which form part of the south bounds of the said tract as the said tract and townships therein have been laid out and surveyed, by the surveyor general of this state.

The county of Cayuga to contain all that part of the said military tract, bounded easterly by the county of Onondaga, northerly by Lake Cayuga. Ontario; westerly by the line called the new pre-emption line from said Lake Ontario to the Seneca lake, and thence along the west shore of said lake to the south west corner of the township of Hector and southerly by the south bounds of the townships of Hector, Ulysses and Dryden in the said military tract, as the same have been laid out and surveyed as aforesaid.

The county of Tioga to contain all that part of this State, bounded Tioga west by the new pre-emption line, commonly so called, beginning at the eighty two mile stone in the line of division between this State and the commonwealth of Pennsylvania and running due north to Lake Ontario, as the same hath been run and established by law, until the said line be intersected by a line drawn west from the south west corner of the military tract; northerly by a line drawn from the said place of intersection to the south west corner of the said tract, and by the south bounds of the said tract, to the county of Chenango; then easterly and northerly by the said county of Chenango, and also easterly by the county of Delaware, and southerly by the said division line between this State and the commonwealth of Pennsylvania.

The county of Oneida to contain all that part of this State, bounded Oneida. easterly by the county of Herkimer; northerly by the county of Clinton and by the north bounds of this State, from the most westerly corner of the county of Clinton to a place in Lake Ontario where the said north bounds shall be intersected by the new pre-emption line aforesaid, continued due north; westerly by the line last mentioned to the south bank of Lake Ontario, and southerly by the counties of Cayuga, Onondaga and Chenango, and the south bounds of the patent granted to William Bayard and others, called the Freemasons patent.

The county of Steuben to contain all that part of this State, bounded Steuben. southerly by the line of division between this state and the commonwealth of Pennsylvania; easterly by the county of Tioga and part of the county of Cayuga; northerly by the north bounds of the lots numbered six of the townships called the seven ranges of townships, and the same continued easterly to the west bounds of the county of Cayuga, and westerly by a true meridian drawn south from the confluence of the Genesee river with the Shannahaguaicon or Canaserago creek, for the west bounds of the purchase of Phelps and Gorham from the Seneca Indians.

And the county of Ontario to contain all the remainder of this State, Ontario. lying north and west of the said county of Steuben, and west of the said counties of Cayuga and Oneida.

CHAP. 124.

AN ACT to prevent digging up and removing dead bodies for the purpose of dissection.

PASSED the 3d of April, 1801.

Grave robbery, penalty for.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That if any person shall with intent to dissect, dig up, or remove or be aiding or assisting in digging up or removing any dead human body which shall have been interred in any cemetery or burial place within this State, or shall dissect, or aid, abet or assist in dissecting such human body every such person, shall be deemed guilty of a public offence, and being thereof convicted in the supreme court or in any court of oyer and terminer and gaol delivery or general sessions of the peace, shall suffer such punishment by fine, or imprisonment, or both, as the court before whom such conviction shall be had, shall in their discretion think proper.

Bodies of certain offenders may be given for dissection.

And be it further enacted, That the supreme court or any court of oyer and terminer and gaol delivery, when any offender shall be convicted in any such court of murder for which such person shall be sentenced to suffer death, may at their discretion, add to the judgment that the body of such offender be delivered to a surgeon for dissection; and the sheriff who is to cause such sentence to be executed shall accordingly deliver the body of such offender, after execution done, to such surgeon as such court shall direct for the purpose aforesaid. *Provided however* that such surgeon or some other person by him appointed for that purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

CHAP. 125.

AN ACT apportioning the representation in the legislature of this State, according to the rule prescribed by the Constitution.

PASSED the 3d of April, 1801.

Senatorial districts.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the four great districts of this State, for the election of senators, shall respectively comprehend the following parts of this State, to wit; the southern district, the city and county of New York, and the counties of Suffolk, Queens, Kings, Richmond and Westchester; the middle district, the counties of Rockland, Orange, Ulster, Green, Delaware, Dutchess and Columbia; the eastern district, the city and county of Albany, and the counties of Rensselaer, Saratoga, Washington, Essex and Clinton; and the western district, the counties of Schoharie, Montgomery, Otsego, Herkimer, Oneida, Chenango, Onondaga, Cayuga, Tioga, Ontario and Steuben; and that the number of senators to be chosen in each of the said districts shall be as follows; in the southern district, nine, in the middle district, twelve, in the eastern district, eleven, and in the western district, eleven; and that the senators elected or to be elected in each of the said districts, shall belong to the several classes already ascertained for that purpose until further provision be made in the premises.

And be it further enacted, That the number of members of the assembly, to be chosen in each of the counties of this State, shall be as follows, to wit; in the city and county of New York, thirteen, in the county of Suffolk four, in the county of Queens four, in the county of Kings one, in the county of Richmond one, in the county of Westchester five, in the county of Rockland one, in the county of Orange five, in the county of Ulster four, in the county of Dutchess ten, in the county of Columbia six, in the county of Delaware two, in the county of Green two, in the county of Albany eight, in the county of Rensselaer six, in the county of Saratoga five, in the county of Washington six, in the counties of Clinton and Essex one, in the county of Schoharie one, in the county of Montgomery six, in the county of Otsego four, in the county of Herkimer three, in the county of Oneida three, in the county of Chenango two, in the county of Onondaga one, in the county of Cayuga one, in the county of Tioga one, and in the counties of Ontario and Steuben two.

Appor-
tionment
of assem-
blymen.

And be it further enacted, That until other legislative provision be made in the premises, the electors of the said counties of Clinton and Essex, shall give their votes for the said member of assembly, in the same manner as if the said county of Essex was part of the said county of Clinton; and the electors of the said counties of Ontario and Steuben, shall also give their votes for the said two members of assembly, in the same manner as if the said county of Steuben was part of the said county of Ontario; and that the respective clerks of the said counties of Essex and Steuben shall within ten days after the time appointed, for the inspectors of the several towns in said counties delivering to them the certificates of the number of votes given in such towns for each candidate for the assembly, deliver or by a sworn deputy, cause the said certificates to be delivered to the clerks of the said counties of Clinton and Ontario respectively, who shall calculate the same together with the votes given in their respective counties, and for that purpose shall not make such calculation until the expiration of the said ten days, and shall then from the whole of the said certificates, determine the persons duly elected by the greatest number of votes, as members of the assembly, for the said counties of Clinton & Essex, and of Ontario and Steuben respectively, and further proceed therein as is directed by the act entitled "An act for regulating elections."

Assembly-
men in
Clinton
and Essex;
Ontario
and Steu-
ben.

CHAP. 126.

AN ACT for the encouragement of literature.

PASSED the 3d of April, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That for the promotion of literature within this State, there shall be raised by four successive lotteries, the sum of one hundred thousand dollars, that is to say, the sum of twenty five thousand dollars by each lottery.—

Lotteries
for promo-
tion of
literature.

And be it further enacted, That Thomas Storm David Gelston and Philip Ten Eyck of New York, Smith Thompson of Poughkeepsie, Elisha Jenkins of Hudson, Daniel Hale of Albany and John Lovett of Lansingburgh or the survivors or survivor of them shall be and they are hereby appointed managers of the said lotteries, and as such they, or a

Managers
named.

majority of them, shall have power to adopt such schemes, as to them, or the major part of them, may appear proper, to sell the said tickets, and to superintend the drawing of the said lotteries, and the payment of the prizes thereof.

Bonds to
be given.

And be it further enacted, That each of the said managers shall before he takes upon himself the management of the said lotteries, enter into a bond to the people of this State, with such sureties as the comptroller of this State, for the time being, shall approve or, in the sum of ten thousand dollars, conditioned for the faithful and honest discharge of the duties required of him by this act, and for rendering a just account of all their proceedings at the next session of the legislature, after the drawing of each of the said lotteries.

Deposits to
be made.

And be it further enacted, That the said managers shall, as often as they shall receive five thousand dollars from the sale of tickets, deposit the same in some one of the banks established within this State, for safe keeping.

How avails
disposed of

And be it further enacted, That the managers, aforesaid after the drawing of each lottery shall forthwith pay out of the neat amount or avails thereof the sum of twelve thousand five hundred dollars to the regents of the university of the State of New York for the purpose of being by them distributed among such and so many of the academies, as now are or hereafter may be erected in this State, in such proportions, and to be appropriated in such manner, as they shall judge most beneficial for the several academies, and most advantageous to literature, and the residue into the treasury of this State, and the monies to be paid into the treasury of this State shall be applied in such manner for the encouragement of common schools as the legislature may from time to time direct.

When sale
of tickets
to com-
mence.

And be it further enacted, That the said managers shall not proceed to sell tickets of any of the said lotteries until after the first day of October next and that the said lotteries shall be drawn without delay after the sale of the tickets.

CHAP. 127.

AN ACT for the preservation of the fishery in certain waters.

PASSED the 3d of April, 1801.

Net fishing
forbidden
in certain
waters.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall not be lawful for any person to draw any seine, set any net, make any weir or other obstructions in the following rivers running into Lake Ontario, viz.: The Big Salmon river or creek, the Little Salmon river or creek, the Great Sandy river or creek, and the little sandy river or creek, or within one hundred rods from the mouths thereof to divert the salmon in their usual course in the going up the said rivers or creeks, and every person offending therein shall for every such offence forfeit twenty five dollars besides the salmon he may take by such seine, net, weir, or other obstruction, to be recovered with costs of suit by action of debt in any court having cognizance thereof, the one half of which forfeitures when recovered shall be paid to the prosecutor, and the other half to the overseers of the highways of the town where such recovery shall be had, to be applied to the repairing of the roads in such town.

And be it further enacted, That it shall not be lawful for any person to make any dam across any part of the said rivers or creeks below where salmon are found, so as to prevent the usual course of the salmon from going up the said rivers or creeks, and every person so offending shall for every such offence forfeit five hundred dollars to be recovered as aforesaid for the uses aforesaid, and such dam shall be adjudged a public nuisance.

Dams prohibited where salmon abound.

And be it further enacted, That the owner or owners of mill or other dams, which were on the twenty eighth day of March one thousand eight hundred made across any river or creek running into lakes Ontario, Erie or Champlain so as to prevent the usual course of the salmon from going up the said rivers or creeks, shall on or before the first day of October next so alter such dam by making a slope thereto not exceeding forty five degrees, and planked in such smooth manner that salmon may easily pass over into the waters above the dam or by removing the obstructions of such dam in any other manner so that salmon may freely pass into the waters above such dam, under the penalty of two hundred dollars, to be recovered and applied as aforesaid; and in case such dam shall not be so altered within the time above mentioned such dam shall be adjudged a public nuisance.

Slopes to be built in dams for passage of salmon.

And be it further enacted, That it shall not be lawful for any person after sun set, and before sun rise in the months of April and May in any year to set or cause to be set or placed any net or fike in or across that part of Croton river, which is in the county of Westchester and every person offending therein, shall for every such offence forfeit and pay five dollars to be recovered by action of debt with costs before any justice of the peace: The one half of which sum when recovered shall be for the use of the poor of the town where the offence shall be committed, and the other half for the use of the person prosecuting for the same. And that it shall not be lawful for any person to fish with a net or seine in the waters of Otsego lake between the twenty fifth day of May, and the first day of October in any year; and every person offending therein, shall for every such offence forfeit and pay ten dollars to be recovered and applied in like manner.

Nets and fykes prohibited in certain waters in the night-time.

CHAP. 128.

AN ACT relative to the city of Hudson.

PASSED the 3rd of April, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the district of country contained within the following limits, to wit: Beginning at the channel of Hudson's river, in the county of Columbia, directly opposite the mouth of the creek commonly called Major Abraham's creek; thence to and up the middle of said creek to the place where the Claverack creek empties into the said Major Abraham's creek; thence up along the middle the said Claverack creek, until the said Claverack creek strikes the line of the manor of Livingston, as now held and possessed; thence along the line of the said manor of Livingston to the east side of Hudson's river; thence into the said river, one hundred and eighty feet below high water mark, thence to the place of beginning, keeping the same distance of one hundred and eighty feet all along from high water mark aforesaid, shall continue to be a city by the name of Hudson, and that all the freemen of this

Boundaries of the city.

Greene

The county of Green to contain all that part of this State, bounded southerly by the county of Ulster and part of the county of Delaware, as hereafter described; easterly by the middle of Hudson's river; north and north westerly by a line drawn west from the southernmost part of Bearen island, in said river to the south west corner of the manor of Rensselaerwyck, and a line drawn from thence to the place where the line formerly run from the head of Katters creek issuing out of the southerly side or end of a certain lake or pond, lying in the Blue mountains, to a small lake called Utsayantho intersects the Schoharie creek, and westerly by the said county of Delaware.

Albany.

The county of Albany to contain all that part of this State, bounded northerly by a line, beginning at a point in the middle of Hudsons river, opposite to the middle of the most northerly branch of the Mohawk river; running thence through the middle of the said northerly branch and of the said Mohawk river westerly to the east bounds of the city of Schenectady; thence along the easterly and northerly bounds of the said city as the same are specified in the award of the commissioners appointed by the act entitled "An act for settling the line or lines of division between the town of Schenectady and the patent of Kayaderosseras" passed the nineteenth day of January one thousand seven hundred and ninety three, and filed in the office of the secretary of this State, to the north west corner of the said city; westerly by a line drawn from the said north west corner of the said city southerly to the Mohawk river opposite to the north east corner of a patent granted to George Ingoldsby and others, and thence running south westerly along the north bounds of the last mentioned patent, and of the patents granted to Walter Butler, to Thomas Freeman and to Alexander, Philip and William Cosby to the Schoharie creek; thence along the said creek and the Schoharie patent to the patent granted to Johannes Lawyer; then along the south bounds of the patent granted to Jonathan Brewer to the manor of Rensselaerwyck; thence along the west bounds of the said manor, to the south west corner thereof; southerly by the county of Green, and easterly by the county of Rensselaer.

Schoharie.

The county of Schoharie to contain all that part of this State, bounded easterly by the county of Albany, northerly by part of the south bounds of the county of Montgomery as hereafter described; westerly by a line beginning at the south west corner of a tract of land formerly granted to John Lyne, and running thence the following courses, and distances as marked by order of the surveyor general, south twenty one degrees and forty eight minutes west, two hundred and nineteen chains to the place where Joshua Tucker formerly resided; thence south seven degrees and forty eight minutes west, one hundred and ninety three chains to the easternmost line of the second allotment of a tract of land, known by the name of the Belvidere patent; thence south nine degrees east six hundred and ninety five chains, to a certain hill known by the name of Grovers hill; thence with a direct line from the most north westerly corner of Stroughburgh patent, thence with a direct line to the most northerly corner of Harpersfield on the Charlotte or Adegatangie branch of the Susquehanna river, thence south easterly along the north bounds of Harpersfield to the said Lake Utsayantho, and southerly by a line formerly run from the head of Kaaters creek, where the same issues out of the southerly side or end of a certain lake or pond, lying in the Blue mountains to the said Lake Utsayantho, and by part of the north bounds of the county of Green.

Delaware.

The county of Delaware to contain all that part of this State, bounded as follows, beginning on the east bank of the Delaware river, at the

most southerly corner of lot number twenty eight in the subdivision of great lot number two, in the Hardenbergh patent; then north sixty two degrees east, to the north easterly bounds of great lot number eight, in the said patent; then along the bounds of the said lot number eight north westerly to the south west corner of lot number twenty, in the said patent; then north easterly along the division line between lots number nineteen and said lot number twenty, and that line continued to the southerly bounds of the county of Albany; then along the same, and along the southerly bounds of the county of Schoharie to the Lake Utsayantho, then along the north bounds of a tract of land granted to John Harper and others, to the north west corner thereof, and the same line continued to the Adegatangie or Charlotte river; then down the waters thereof to the Susquehannah river; then down the waters thereof to the line of property; then southerly along the said line of property to the Delaware river; then down the waters thereof and along the division line between this State and the commonwealth of Pennsylvania, to the place of beginning.

The county of Otsego to contain all that part of this State, bounded Otsego. southerly by the county of Delaware, easterly by the county of Schoharie; northerly by a line beginning at the north west corner of the county of Schoharie, running thence westerly to the north east corner of a tract of land formerly granted to John Groesbeck, called Spring-field; thence along the north bounds thereof and the same line continued to a line run from the Little Falls in the Mohawk river to the mouth of the creek on which the mills of Richard Cary are erected where the same creek empties itself into the waters of Lake Otsego; then southerly along said line to the southerly bounds of a tract of land formerly granted to Theobald Young; then along the southerly bounds thereof and the southerly bounds of a tract of land formerly granted to Rudolph Staley, to a tract of land formerly granted to William Bayard and others, called the Free Masons patent; thence southerly and westerly along the same to the Unadilla river, and westerly by the said Unadilla river from the place last mentioned, to its junction with the Susquehannah river.

The county of Montgomery to contain all that part of this State, Montgom-
ery. bounded easterly by part of the west bounds of the county of Albany and by the west bounds of the counties of Saratoga, Washington, and Essex, northerly by the county of Clinton, southerly by a line drawn from the north east corner of the tract of land, granted by letters patent to George Ingoldsby and others, on the Mohawk river, and running thence south westerly along the county of Albany, to the south bounds of a patent formerly granted to John Bowen; thence south westerly along the same, to the tract known by the name of the old Schoharie patent; thence west along a line heretofore run as part of the northern boundary of the former county of Albany, to a place where the same is intersected by a line drawn north twenty five degrees east from a lake called Utsayantho; thence westerly to the south east corner of a tract of land formerly granted to William Cosby, thence westerly along the same and along a tract of land formerly granted to John Lyne, to the south west corner thereof; thence along the northern bounds of the county of Otsego, to a line run from the Little Falls on the Mohawk river, to the head waters of Lake Otsego; westerly by a straight line drawn from thence, to the east end of the easternmost lock of the canal, on the north side of the Mohawk river, at the Little Falls; thence north as the magnetic needle pointed in the year one thousand seven hundred and seventy two, to the southerly line of a tract of land called Jersey-

field; from thence a direct course to strike the line of division between two certain tracts of land, the one known by the name of Nobleborough, and the other by the name of Arthurborough; thence along the said line of division to the northerly bounds of the said tracts; thence a north course to the north bounds of this State.

Herkimer. The county of Herkimer to contain all that part of this State, bounded easterly by the county of Montgomery and part of the county of Otsego, southerly by the county of Otsego, westerly by a line beginning in the the south bounds of the patent granted to William Bayard and others, called the Free Masons patent, where the same is intersected by a line run south from the former fording place in the Mohawk river at Old Fort Schuyler, now called Utica; thence north along said line to the southerly line of Cosby's manor; thence north easterly a direct line to the northerly bounds of said Cosby's manor, at a point where the same is intersected by the division line between Gage's and Walton's patents, thence northerly on the line between the said Walton's and Gage's patents, to the West Canada creek; thence northerly up the waters of said creek to the forks thereof; thence easterly up the east branch of said creek, to the north east corner of Service's patent; thence north to the county of Clinton and northerly by the county of Clinton.

Chenango. The county of Chenango to contain all that part of this State, bounded westerly by the eastern boundaries of the tract of land called the military tract as the same have been run and marked by the surveyor general of this State, and by a line drawn from the south east corner of the said tract on a direct course to the confluence of the Tioughnioga and Chenango rivers and to the east bank of the last mentioned river; southerly by a line drawn from the place last mentioned along the eastern bank of the Chenango river to the north west corner of a tract of land granted to John Jay and others; thence along the north bounds thereof and the same line continued until it meets the west line of Clinton township; thence along the same south to the south west corner thereof; thence east along the south bounds thereof to the line of property; easterly by the west bounds of the counties of Delaware and Otsego; northerly by a line beginning at the Unadilla river, and at the south east corner of township number twenty of the twenty townships, so called, and running along the south bounds of the said township number twenty to the division line between the third and fourth quarters thereof; thence along the said division line to the north bounds thereof; thence along the north bounds thereof and of the said twenty townships, westerly to the south west corner of lot number fifty in the first allotment of a tract of land called New Petersborough; thence northerly on the west line of said lot number fifty and sixty nine, to the fourth line of New Stockbridge; thence the shortest line to the main branch of the Oneida creek; thence northerly down said creek to the Oneida lake; thence westerly along the southerly shore of Oneida lake, to the township of Cicero, in the said military tract.

Onondaga. The county of Onondaga to contain all that part of the tract of land in this State, commonly called the military tract, set apart for the use of the troops of the line of this State, lately serving in the army of the United States, which is bounded easterly by the county of Chenango, being the east bounds of the said tract; north and north easterly by the Oneida lake, and the Onondaga or Oswego river, issuing therefrom to the place where it empties into Lake Ontario; northwesterly by Lake Ontario from the mouth of the said river to the west line of the township of Hannibal, in the said military tract; westerly by the west and south bounds of said township to the township called Lysander; thence

on the west line of Lysander to Cross lake, in the Seneca river; thence in the straightest direction to that point where the west line of the township of Camillus touches the aforesaid river; thence on the west line of Camillus, to the south line thereof; thence easterly along the said south line to the north west corner of the township of Marcellus; thence along the westerly and southerly lines of the said township to the Skanateles lake; thence southerly on the westerly shore of the same to the township of Tully; thence between the townships of Tully and Sempronius, Homer and Locke, Virgil and Dryden, to the south bounds of the said military tract; southerly by the south bounds of the townships of Virgil and Cincinnatus, which form part of the south bounds of the said tract as the said tract and townships therein have been laid out and surveyed, by the surveyor general of this state.

The county of Cayuga to contain all that part of the said military Cayuga. tract, bounded easterly by the county of Onondaga, northerly by Lake Ontario; westerly by the line called the new pre-emption line from said Lake Ontario to the Seneca lake, and thence along the west shore of said lake to the south west corner of the township of Hector and southerly by the south bounds of the townships of Hector, Ulysses and Dryden in the said military tract, as the same have been laid out and surveyed as aforesaid.

The county of Tioga to contain all that part of this State, bounded Tioga west by the new pre-emption line, commonly so called, beginning at the eighty two mile stone in the line of division between this State and the commonwealth of Pennsylvania and running due north to Lake Ontario, as the same hath been run and established by law, until the said line be intersected by a line drawn west from the south west corner of the military tract; northerly by a line drawn from the said place of intersection to the south west corner of the said tract, and by the south bounds of the said tract, to the county of Chenango; then easterly and northerly by the said county of Chenango, and also easterly by the county of Delaware, and southerly by the said division line between this State and the commonwealth of Pennsylvania.

The county of Oneida to contain all that part of this State, bounded Oneida easterly by the county of Herkimer; northerly by the county of Clinton and by the north bounds of this State, from the most westerly corner of the county of Clinton to a place in Lake Ontario where the said north bounds shall be intersected by the new pre-emption line aforesaid, continued due north; westerly by the line last mentioned to the south bank of Lake Ontario, and southerly by the counties of Cayuga, Onondaga and Chenango, and the south bounds of the patent granted to William Bayard and others, called the Freemasons patent.

The county of Steuben to contain all that part of this State, bounded Steuben. southerly by the line of division between this state and the commonwealth of Pennsylvania; easterly by the county of Tioga and part of the county of Cayuga; northerly by the north bounds of the lots numbered six of the townships called the seven ranges of townships, and the same continued easterly to the west bounds of the county of Cayuga, and westerly by a true meridian drawn south from the confluence of the Genesee river with the Shannahaguaicon or Caneserago creek, for the west bounds of the purchase of Phelps and Gorham from the Seneca Indians.

And the county of Ontario to contain all the remainder of this State, Ontario. lying north and west of the said county of Steuben, and west of the said counties of Cayuga and Oneida.

CHAP. 124.

AN ACT to prevent digging up and removing dead bodies for the purpose of dissection.

PASSED the 3d of April, 1801.

Grave robbery, penalty for.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That if any person shall with intent to dissect, dig up, or remove or be aiding or assisting in digging up or removing any dead human body which shall have been interred in any cemetery or burial place within this State, or shall dissect, or aid, abet or assist in dissecting such human body every such person, shall be deemed guilty of a public offence, and being thereof convicted in the supreme court or in any court of oyer and terminer and gaol delivery or general sessions of the peace, shall suffer such punishment by fine, or imprisonment, or both, as the court before whom such conviction shall be had, shall in their discretion think proper.

Bodies of certain offenders may be given for dissection.

And be it further enacted, That the supreme court or any court of oyer and terminer and gaol delivery, when any offender shall be convicted in any such court of murder for which such person shall be sentenced to suffer death, may at their discretion, add to the judgment that the body of such offender be delivered to a surgeon for dissection; and the sheriff who is to cause such sentence to be executed shall accordingly deliver the body of such offender, after execution done, to such surgeon as such court shall direct for the purpose aforesaid. *Provided however* that such surgeon or some other person by him appointed for that purpose, shall attend to receive and take away the dead body at the time of the execution of such offender.

CHAP. 125.

AN ACT apportioning the representation in the legislature of this State, according to the rule prescribed by the Constitution.

PASSED the 3d of April, 1801.

Senatorial districts.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the four great districts of this State, for the election of senators, shall respectively comprehend the following parts of this State, to wit; the southern district, the city and county of New York, and the counties of Suffolk, Queens, Kings, Richmond and Westchester; the middle district, the counties of Rockland, Orange, Ulster, Green, Delaware, Dutchess and Columbia; the eastern district, the city and county of Albany, and the counties of Rensselaer, Saratoga, Washington, Essex and Clinton; and the western district, the counties of Schoharie, Montgomery, Otsego, Herkimer, Oneida, Chenango, Onondaga, Cayuga, Tioga, Ontario and Steuben; and that the number of senators to be chosen in each of the said districts shall be as follows; in the southern district, nine, in the middle district, twelve, in the eastern district, eleven, and in the western district, eleven; and that the senators elected or to be elected in each of the said districts, shall belong to the several classes already ascertained for that purpose until further provision be made in the premises.

And be it further enacted, That the number of members of the assembly, to be chosen in each of the counties of this State, shall be as follows, to wit; in the city and county of New York, thirteen, in the county of Suffolk four, in the county of Queens four, in the county of Kings one, in the county of Richmond one, in the county of Westchester five, in the county of Rockland one, in the county of Orange five, in the county of Ulster four, in the county of Dutchess ten, in the county of Columbia six, in the county of Delaware two, in the county of Green two, in the county of Albany eight, in the county of Rensselaer six, in the county of Saratoga five, in the county of Washington six, in the counties of Clinton and Essex one, in the county of Schoharie one, in the county of Montgomery six, in the county of Otsego four, in the county of Herkimer three, in the county of Oneida three, in the county of Chenango two, in the county of Onondaga one, in the county of Cayuga one, in the county of Tioga one, and in the counties of Ontario and Steuben two.

Appor-
tionment
of assem-
blymen.

And be it further enacted, That until other legislative provision be made in the premises, the electors of the said counties of Clinton and Essex, shall give their votes for the said member of assembly, in the same manner as if the said county of Essex was part of the said county of Clinton; and the electors of the said counties of Ontario and Steuben, shall also give their votes for the said two members of assembly, in the same manner as if the said county of Steuben was part of the said county of Ontario; and that the respective clerks of the said counties of Essex and Steuben shall within ten days after the time appointed, for the inspectors of the several towns in said counties delivering to them the certificates of the number of votes given in such towns for each candidate for the assembly, deliver or by a sworn deputy, cause the said certificates to be delivered to the clerks of the said counties of Clinton and Ontario respectively, who shall calculate the same together with the votes given in their respective counties, and for that purpose shall not make such calculation until the expiration of the said ten days, and shall then from the whole of the said certificates, determine the persons duly elected by the greatest number of votes, as members of the assembly, for the said counties of Clinton & Essex, and of Ontario and Steuben respectively, and further proceed therein as is directed by the act entitled "An act for regulating elections."

Assembly-
men in
Clinton
and Essex;
Ontario
and Steu-
ben.

CHAP. 126.

AN ACT for the encouragement of literature.

PASSED the 3d of April, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That for the promotion of literature within this State, there shall be raised by four successive lotteries, the sum of one hundred thousand dollars, that is to say, the sum of twenty five thousand dollars by each lottery.—

Lotteries
for promo-
tion of
literature.

And be it further enacted, That Thomas Storm David Gelston and Philip Ten Eyck of New York, Smith Thompson of Poughkeepsie, Elisha Jenkins of Hudson, Daniel Hale of Albany and John Lovett of Lansingburgh or the survivors or survivor of them shall be and they are hereby appointed managers of the said lotteries, and as such they, or a

Managers
named.

CHAP. 129.

AN ACT for regulating the buildings, streets, wharves and slips in the city of New York.

PASSED the 3d of April, 1801.

Power of
common
council in
respect to
buildings,
streets,
wharves,
etc.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the mayor, aldermen and commonalty of the city of New York, in common council convened from time to time to make such bye laws and orders for the better regulating and arranging with uniformity such new buildings as shall be erected for habitations or for the purposes of trade and commerce; and also for regulating and altering the streets, wharves, and slips in such manner as shall be most commodious for shipping and transportation; and also from time to time to nominate and appoint two or more fit persons to be the surveyors of the buildings, streets, wharves, and slips of the said city, whose duty it shall be to direct and see that all buildings, streets, wharves and slips to be laid out or altered in the said city, be regulated with uniformity for the accommodation of habitations, shipping, trade and commerce according to such bye laws and orders as by the common council of the said city shall for that purpose be made, which said surveyors shall respectively before they enter upon the duties of their offices, take the following oath or affirmation before the mayor or recorder, viz: "I appointed a surveyor of the city of New York do swear in the presence of Almighty God that I will faithfully, truly and impartially execute the office of one of the surveyors of the same city."

Prevention
of en-
croach-
ments.

And be it further enacted, That it shall be lawful for the said mayor, aldermen and commonalty in common council convened to prevent any building that may inroach upon any street within the said city, and if in so doing or in laying out any streets, wharves or slips, they shall require for such purposes the ground of any person, notice thereof shall be given to the owner or parties, interested therein or to his or their agent or legal representative, and the said common council shall treat with such persons for the same, and if any such person shall refuse to treat for such ground, it shall be lawful for the mayor or recorder, and any two or more aldermen by precept under their hands and seals to command the sheriff of the said city and county of New York to impanel and return and he is hereby required to impanel and return a jury to appear before the mayors court of the said city, at any term thereof not less than three weeks from the date of such precept, to enquire of and assess the damages and recompence due to the owner or owners of such ground and at the same time to summon such owner or owners or his or their agent or legal representative by notice to be left at his or their usual place of abode to appear before the said court at the time and place in such precept to be mentioned; which jury being first duly sworn faithfully and impartially to enquire into and assess the damages in question, and having viewed the premises if necessary shall enquire of and assess such damages and recompence, as they shall under all the circumstances judge fit to be awarded to the owner or owners of such ground for their respective losses, according to their several interests and estates therein. And the verdict of such jury, and the judgment of the said mayors court thereupon and the payment of the sum or sums of money so awarded and adjudged to the owner or owners thereof, or ten-

der and refusal thereof shall be conclusive and binding against the said owner and owners, his and their respective heirs, executors, administrators and assigns claiming any estate or interest of, in or to the same ground; and it shall thereupon be lawful for the said mayor, aldermen and commonalty to cause the same ground to be converted to and used for the purposes aforesaid.

And be it further enacted, That it shall be lawful for the said mayor, aldermen and commonalty to lay out as far as the same has not already been done and according to the plan agreed upon for that purpose regular streets or wharves of the width of seventy feet in front of those parts of the said city which adjoin to the East river or sound and to the North or Hudsons river, and of such extent along those rivers respectively as they may think proper; and that as the buildings of the said city shall be further extended along the said rivers it shall be lawful for the said mayor, aldermen and commonalty from time to time to lengthen and extend the said streets or wharves.

Laying out streets and wharves.

And be it further enacted, That the said streets or wharves shall be made and compleated according to the said plan by and at the expence of the proprietors of land adjoining or nearest and opposite to the said streets or wharves in proportion to the breadth of their several lots by certain days to be for that purpose appointed by the said mayor, aldermen and commonalty, and that the respective proprietors of such of the said lots, as may not be adjoining to the said streets or wharves shall also fill up and level at their own expence according to such plan, and by the said days respectively the spaces lying between their said several lots, and the said streets and wharves and shall upon so filling up and levelling the same be respectively entitled to and become the owners of the said intermediate spaces of ground in fee simple.

Duty of proprietors

And be it further enacted, That if any of the said proprietors shall neglect or refuse to fill up and level such intermediate spaces of ground by the said days, to be so as aforesaid appointed, it shall be lawful for the said mayor, aldermen and commonalty to cause the same to be done for and on behalf of the said proprietors, and to charge them with the expence, and if the said proprietors respectively shall not repay the said expence with lawful interest from the times of the expenditure within one year and six months after the demand for that purpose, made by the said mayor, aldermen, and commonalty, or any person on their behalf it shall be lawful for the said mayor, aldermen and commonalty to levy the same together with the interest thereof, and all reasonable costs and expences attending such proceedings by distress and sale of the goods and chattels of such proprietors or the occupants of the said lots respectively; or to recover the same from the said proprietors respectively by action of debt in the supreme court of this State, wherein it shall be sufficient to allege generally that the defendants respectively are indebted to the said mayor, aldermen and commonalty in a certain sum for money expended on their account by virtue of this act, and in such action any less sum than the one declared for may be recovered and full costs shall be taxed for the plaintiffs if judgment shall be given in their favor.

Penalty for refusal by proprietors.

And be it further enacted, That the said sums so to be expended on behalf of the said proprietors, and every sum which hath heretofore been assessed among the owners or occupants of any houses and lots in the said city by virtue of the act entitled, "An act for regulating the building streets, wharves and slips in the city of New York," passed the sixteenth of April, one thousand seven hundred and eighty seven and not refunded or shall hereafter be assessed by virtue of this act, shall be a lien or charge upon the houses and lots in respect to which such

Assessments to be liens on lots.

assessments shall have been made and shall bear lawful interest until paid, and shall be entitled to a preference before all other incumbrances upon the same, and may be sued for and recovered with costs in like manner as if the said houses and lots were mortgaged to the said mayor aldermen and commonalty for the payment thereof; *provided always*, that nothing herein contained shall extend to charge any such houses or lots which may have been bona fide sold and disposed of after the making of such assessment thereon and before the third day of April one thousand seven hundred and ninety eight.

Piers to be sunk.

And be it further enacted, That it shall be lawful for the said mayor aldermen, and commonalty to direct piers to be sunk and completed at such distances and in such manner as they in their discretion shall think proper in front of the said streets or wharves so adjoining and extending along the said river and the said piers to be connected with the said streets or wharves by bridges at the expence of the proprietors of the lots lying opposite to the places where such piers shall be directed to be sunk and by such days and times as the said mayor aldermen and commonalty may for that purpose limit and appoint; and if the said proprietors shall neglect or refuse to sink or make the said piers & bridges according to the directions of the said mayor, aldermen and commonalty, it shall be lawful for the said mayor, aldermen and commonalty to sink and make the same piers and bridges at their own expence, and to receive to their own use wharfage for all vessels that may at any time or times lie or be fastened to the said piers or bridges which they shall so make as aforesaid.

Grants of interests in piers.

VIII. *And be it further enacted*, That it shall be lawful for the said mayor aldermen and commonalty to grant to the owners of lots fronting on any of the said streets of seventy feet, their heirs and assigns a common interest in the piers to be sunk in front of such streets in proportion to the breadth of their respective lots, under such restrictions and regulations, and within such limits as the said mayor, aldermen and commonalty shall deem just and proper.

Validity of grants.

And be it further enacted, That every clause, covenant and condition in the several grants of the mayor, aldermen and commonalty of the said city, to the said proprietors respectively or those under whom they claim to be kept observed or performed by the grantees respectively, and their respective heirs, executors, administrators and assigns shall notwithstanding this act retain their full force and validity, and shall be in no manner affected by the same, or by any thing to be done or performed in consequence thereof, and the said mayor aldermen and commonalty shall have, possess and be entitled unto the like payments, rights and remedies by virtue of the said grants as they might, or could have had, or would have been entitled to if this act had never been passed, and shall not by the performance of any thing herein contained be deemed to have broken or infringed any of the covenants or conditions on their part contained in the said grants.

Buildings not to be erected.

And be it further enacted, That no building of any kind or description whatsoever (other than the said piers and bridges), shall at any time hereafter be erected upon the said streets or wharves or between them respectively, and the rivers to which they respectively shall front and adjoin.

Sewers, drains and vaults.

And be it further enacted, That it shall be lawful for the said mayor, aldermen and commonalty to cause common sewers, drains and vaults to be made in any part of the said city and to order and direct the pitching and paving the streets thereof, and the cutting into any drain or sewer; and the altering, amending cleansing and scouring of any street

vault, sink or common sewer within the said city; and to cause estimates of the expence of conforming to such regulations to be made and a just and equitable assessment thereof among the owners or occupants of all the houses and lots intended to be benefitted thereby, in proportion as nearly as may be to the advantage which each shall be deemed to acquire; and the said mayor aldermen and commonalty shall appoint five disinterested freeholders to make every such estimate and assessment, who before they enter upon the execution of their trust shall severally take an oath before the mayor or recorder of the said city to make the said estimate and assessment fairly and impartially according to the best of their skill and judgment; and the said freeholders after having made such estimate and assessment shall certify the same in writing to the said mayor, aldermen and commonalty in common council convened, and being ratified by the said council shall be binding and conclusive upon the owners and occupants of such lots so to be assessed respectively, and shall be a lien or charge on such lots as aforesaid and such owners or occupants shall also respectively be liable upon demand to pay the sum at which such houses or lots respectively shall be so assessed to such person as the said common council shall appoint to receive the same, and in default of such payment or any part thereof, it shall be lawful for the mayor, recorder and aldermen of the said city, or any five of them of whom the mayor or recorder shall be one, by warrant under their hands and seals to levy the same by distress and sale of the goods and chattels of such owner or occupant refusing or neglecting to pay the same, rendering the overplus if any after deducting the charges of such distress and sale, to such owner or occupant; and the money when paid or recovered shall be applied towards making, altering, amending, pitching, paving, cleansing and scouring such streets and making and repairing such vaults drains and sewers as aforesaid. *Provided however*, that nothing herein contained shall affect any agreement between any landlord and tenant respecting the payment of any such charges, but they shall be answerable to each other in the same manner as if this act had never been made. And if any money so to be assessed be paid by any person when by agreement or by law the same ought to have been borne and paid by some other person, it shall then be lawful for the person paying to sue for and recover the money so paid, with interest and costs, as so much money paid for the use of the person who ought to have paid the same, and the assessment aforesaid with proof of payment shall be conclusive evidence of such suit.

And be it further enacted, That when the said mayor aldermen and commonalty in common council convened shall make a general regulation in any part of the said city for raising, reducing, levelling or fencing in any vacant or adjoining lots, it shall be lawful for the said mayor, aldermen and commonalty in case the same be not complied with to cause an estimate of the whole expence of conforming to such regulation with respect to each lot which the owner thereof shall refuse or neglect to put in the order thereby required, to be made, assessed and certified by five freeholders in manner aforesaid, and the same being approved by the said mayor, aldermen and commonalty, they shall cause the same to be advertised in two or more of the public news papers printed in the said city for three weeks, and shall therein require the owners of such lots respectively to pay the sum at which said lots shall be so assessed to the chamberlain of the said city, and that if default be made, such lot will be sold at public auction at a day and place therein to be specified for the lowest term of years at which any person shall

Assessment of cost of sewers, etc.; how payment enforced.

offer to take the same in consideration of advancing the sum assessed on the same for the expence aforesaid. And if notwithstanding such notice and demand the owner or owners shall refuse or neglect to pay such assessment with the charge of appraisal and advertisement, then it shall be lawful for the said common council, to cause the said lot to be sold at public auction, for a term of years for the purposes and in the manner expressed in the said advertisement, and to give a declaration of such sale to the purchaser thereof under the common seal of the said city; and such purchaser, his executors, administrators and assigns shall by virtue thereof and of this act lawfully hold and enjoy the same for his and their own proper use, against the owner or owners thereof, and all claiming under him or them; until his term therein shall be fully complete and ended. Being at liberty to remove all the buildings and materials which he or they shall erect or place thereon, but leaving the ground in sufficient fence, and with the street or streets fronting the same in the order required by the said regulations. *Provided always*, that if after defraying the actual expence of conforming any lot so be to sold for a term of years, to the regulations aforesaid and deducting all reasonable charges attending the same, a surplus of the purchase money shall remain in the hands of the chamberlain of the said city, the same shall forthwith be rendered to the owner or owners of such lot or lots respectively, or his or their legal representatives.

Further
assess-
ments.

And be it further enacted, That if upon completing any such regulation it shall appear to the said mayor, aldermen and commonalty that a greater sum of money hath been bona fide expended in making such regulation, than the sum estimated and collected as aforesaid, it shall then be lawful for the said mayor, aldermen and commonalty to cause a further assessment equal to such excess to be made and collected in manner aforesaid; and in case the sum actually expended shall be less than the sum expressed in such estimate and collected as aforesaid, the surplus shall forthwith be returned to the persons from whom the same were collected or their legal representatives.

Assess-
ments to
be liens on
lots.

And be it further enacted, That if the owner or occupant of any lot of ground in the said city shall refuse or neglect to fill up, raise, reduce or level such lot in such manner as the same shall by any bye law, rule ordinance or order of the common council of the said city be required to be filled up, reduced, levelled or raised, it shall then be lawful for the mayor, aldermen and commonalty of the said city to cause such lot or lots to be filled up, raised or levelled, and the amount of the monies which they shall have advanced for that purpose with lawful interest for the same, shall be deemed a lien on such lot or lots, and shall be recoverable by them as for monies advanced for use of the defendants by suit against the owner or any other occupant or future owner of such lot or lots at their election, in any court having cognizance of the same.

CHAP. 130.

AN ACT for the inspection of flour and meal.

PASSED the 3d of April, 1801.

Inspectors
to be ap-
pointed.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the person administering the government of this State, by and with the advice and consent of the council of appoint-

ment, shall, from time to time, appoint an inspector of flour and meal in each of the cities of New York and Albany, and as many inspectors of flour and meal in each county in this State as shall appear necessary, and that the inspectors already appointed shall continue to hold their respective offices during the pleasure of the said council, and it shall be lawful for the inspectors of the said cities of New York and Albany, by writing under their respective hands and seals, to appoint as many deputies, as they shall think necessary, to assist them in the execution of their office, and to displace them at pleasure; and all acts of such deputies shall be performed in the name of their respective principals.—

And be it further enacted, That the inspectors who shall be appointed in pursuance of this act, before they enter upon the execution of their respective offices, shall take the following oath or affirmation, before one of the judges of the court of common pleas, or if in the cities of New York or Albany, before the mayor or recorder thereof. Viz.: I, A B do swear (or affirm) that I will faithfully, truly, and impartially, according to the best of my judgment, skill and understanding, execute, do and perform the office and duty of inspector and examiner of flour and meal according to law.—

Oath of office.

And be it further enacted, That the inspector appointed agreeably to this act for the city and county of New York, may execute and perform the duties of his office in the vicinity of New York, and shall appoint a deputy in Kings county, to inspect all flour and meal manufactured for exportation in the said county, which flour and meal so inspected may be exported from the said county and from any other port of this State in like manner as if the same had been inspected in the city of New York.—

Deputy for Kings county.

And be it further enacted, That no wheat flour, rye flour, Indian meal, or buckwheat meal, shall be shipped for exportation out of this State, before the same shall have been submitted to the view and examination and approved of and branded by one of the inspectors aforesaid. And it shall not be lawful for such inspector to brand any cask containing Indian meal unless the same shall have been made of corn properly kiln dried and shall be ground fine and bolted.—

Flour and meal to be inspected before exportation.

And be it further enacted, That all wheat flour, rye flour, Indian meal or buckwheat meal manufactured for exportation as aforesaid, shall be packed in good and strong casks made of seasoned oak, or other suitable timber, each cask whereof shall be hooped with at least ten hoops, three of which hoops shall be on each chime, and properly nailed; which said casks shall be of but two sizes, one size whereof shall contain one hundred and ninety six pounds of flour or meal, with staves of twenty seven inches long, and each head sixteen inches and one half diameter; the other size whereof shall contain ninety eight pounds of flour or meal, the staves whereof may be twenty two inches long, and each head fourteen inches diameter, or the staves may be twenty seven inches long, and each head not to exceed twelve inches diameter, both which sizes of casks, shall be made nearly straight, for the convenience of stowage, and the tare of said casks respectively, shall be marked on one head with a marking iron. *Provided nevertheless* that nothing in this act shall be construed to prevent the packing of Indian meal in hogsheds for exportation, which shall contain eight hundred pounds, and be duly inspected and branded; and each cask of flour and meal packed as aforesaid, shall be branded with the initials of the christian name, and surname of the manufacturer thereof at full length, together with the nett weight of flour or meal which shall be contained in each cask, except hogsheds of Indian meal, on which the nett weight only shall be

How packed for exportation.

Brand marks.

branded ; and on each cask of wheat flour, intended for the first quality shall be branded the word "Superfine," and on each cask intended for the second quality, shall be branded the word "Fine" and on each cask intended for the third quality, shall be branded the words "Fine Middlings" and on each cask intended for the fourth quality, shall be branded the word "Middlings" and on each cask of rye flour, intended for the first quality, shall be branded the words "Superfine Rye Flour" and on each cask intended for the second quality, shall be branded the words "Fine Rye Flour;" and on each cask of Indian meal, shall be branded the words "Indian Meal" and on each cask of buckwheat meal shall be branded the word and letter "B Meal" before either respectively shall be offered for inspection ; and the manufacturer or owner of any flour or meal put up in a cask or casks shall be and hereby is made subject to a penalty of fifty cents, for every pound each such cask is tared less than the true weight thereof, and any inspector of flour or meal having reason to suspect such cask or casks to be falsely tared, may ascertain the same by a suitable examination thereof —

Quality and weight to be determined by inspectors.

And be it further enacted, That it shall be the duty of the said inspectors, upon application to them made, to examine and determine the quality of such flour and meal, and on each cask made and branded, and the flour or meal packed therein agreeably to this act, he shall then and not otherwise, brand the initial letter of his christian name, and his surname at full length, together with the name of the county where the same is inspected on the quarter, in a distinguishable manner ; and in all cases where the brands, describing the quality of flour or meal, shall not in his judgment be branded according to its respective kinds and qualities, he shall alter the same so as to describe the real quality according to the true intent and meaning of this act. That it shall be the duty of the inspector from time to time, to weigh such casks of flour and meal as he or they shall suspect of being too light ; and if found not to contain the just and true weight, to mark or brand the same on the head with the word "Light," and for each cask, which he or they shall so mark or brand with the word "Light" such inspector shall be entitled to, and receive from the owner or shipper of such flour or meal for his trouble of weighing the same, that is to say, for every barrel or half barrel, the sum of twenty cents ; and for each hogshead forty five cents. And every cask of flour or meal, which shall not contain the full weight, branded thereon, the manufacturer thereof, shall forfeit and pay for every pound weight of flour or meal so deficient, the sum of twenty cents. And on all flour or meal injured in manufacturing, or otherwise damaged, so as not to be fit for exportation under any denomination, in the judgment of said inspector, he shall mark or brand on the same the word "Bad," which flour or meal so marked or branded, "Light" or "Bad" shall not be shipped out of this State, under the penalty of five dollars for every cask so marked or branded to be recovered in any court having cognizance thereof, by action of debt, by any person who shall prosecute for the same. And for the trouble aforesaid the said inspectors ; shall be entitled to receive two cents, for each and every cask of flour or meal, and four cents for each and every hogshead of Indian meal, he shall so inspect or examine, to be paid him by the owner or possessor of such flour or meal, who shall charge the buyer or purchaser of such flour or meal with one half of the amount of such inspection, over and above the price of such flour or meal —

Where to be inspected.

VII. And be it further enacted, That all flour and meal, purchased for exportation shall be inspected as aforesaid, at the time and place of such exportation, and if any purchaser of flour or meal for exportation

shall not have the same inspected as aforesaid at the time and place of such exportation, such purchaser or exporter, shall forfeit and pay for every cask of flour or meal five dollars, although the said flour or meal may have been inspected and branded any time previous to such purchase—

VIII. *And be it further enacted*, That if any person, shall lade or attempt to lade, on board any vessel, with intent to ship or export the same direct out of this State, any flour or meal not branded as aforesaid by one of the inspectors, for good and merchantable flour or meal, such person shall forfeit the same; and if any person shall have exported any flour or meal out of this State, not branded by one of the inspectors for good and merchantable flour or meal, such person shall forfeit and pay the sum of five dollars, for every cask of flour or meal so exported—

Penalty for shipping before inspection.

And be it further enacted, That it shall be lawful for any inspector of flour and meal, to enter on board of any vessel between sunrise and sunset, to search for flour or meal, that he may have reason to suspect has been shipped, contrary to the true intent and meaning of this act; and if any person shall hinder or interrupt any such inspector in so entering on board and searching, every such person shall forfeit and pay, one hundred dollars, to be recovered in any court having cognizance thereof, one half to the use of the overseers of the poor in the city or town where the offence may happen, and the other half to the person prosecuting for the same—

Search by inspector.

And be it further enacted, That no inspector of flour or meal shall purchase any flour or meal other than for his own private use, under the penalty of five hundred dollars; and if any person, shall alter or counterfeit any of the aforesaid brand marks, whether State or private, such person shall forfeit, for every such offence the sum of one hundred dollars; and that if any person shall put any flour or meal in any empty casks for sale; which have been branded by the inspector before such casks were emptied, without first cutting out the said brands, such person shall for every cask so repacked forfeit and pay the sum of five dollars. And that every person offering for sale any flour for wheat flour, which shall be found upon examination to be or contain a mixture of Indian meal, or any other mixture, such person shall forfeit and pay, for every such cask so mixed, the sum of five dollars, and the flour shall be liable for the payment thereof. And if any person having charge of any vessel, shall transport into the city of New York any Indian meal upon the deck of such vessel, the master, owner, or person having charge of every such vessel, shall forfeit and pay twenty cents for every barrel and eighty cents for every hogshead of meal so transported as aforesaid—

Inspectors not to purchase; casks used a second time.

And be it further enacted That all such fines penalties and forfeitures as aforesaid, not herein otherwise directed to be collected; shall be recoverable before any justice of the peace, or in any court of record in this State, having cognizance thereof, by any person who will prosecute for the same, one half to the prosecutor, and the other half to be paid to the overseers of the poor of the city or town where the fraud is detected. And for the more certain and easy recovery of the penalties, for the false rate or brand mark upon any cask of flour or meal it shall be lawful for the inspector thereof to seize and sell the same, and out of the nett proceeds retain such penalty or penalties one half for his own use, and the other half to the overseers of the poor in the city or town where the same may be recovered, to the use of the poor thereof, and pay the remainder to the owner or consignee of such flour or meal—

Recovery and disposition of

Power of
recorder of
New York
city.

XXV. *And be it further enacted*, That the recorder of the city of New York, shall be ex officio, a commissioner, equally authorized and required with a judge of the supreme court to do and execute the powers and trusts which such judge is authorized and required to do and execute by virtue of this act; and that whenever, upon the application of an insolvent debtor or his creditors, day may be given, by a judge of the supreme court, or the chancellor to attend in the said city of New York, in case of the death sickness or absence of the chancellor or judge, the said commissioner shall discharge the duties required by this act in the like manner as might have been done by the said chancellor or judge.—

CHAP. 132.

AN ACT relative to the harbor master, and master and wardens and pilots of the port of New York—

PASSED the 3rd of March,* 1801.

Harbor
master,
appoint-
ment of.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the person administering the government of this State, by and with the advice and consent of the council of appointment shall from time to time as often as it shall be requisite, appoint some proper person to be harbor master of the port of New York, and the said harbor master, before he enters upon the duties of his office, shall, execute a bond to the people of this State, with two sufficient sureties to be approved of by the mayor of the city of New York in the penal sum of two thousand five hundred dollars, conditioned for the faithful and impartial fulfilment of the duties required of him by this act, and shall also take an oath, truly and faithfully to execute the same, to be administered by the said mayor. *Provided however* that the harbor master already appointed shall continue in office during the pleasure of the said council—

Authority
of harbor
master.

And be it further enacted, That the said harbor master shall have authority to regulate and station all ships and vessels in the stream of the East and North rivers within the limits of the city of New York, and at the wharves thereof, and to remove from time to time such ships or vessels as are not employed in receiving or discharging their cargoes, to make room for such others as require to be more immediately accommodated for the purpose of receiving or discharging theirs, and as to the fact of their being fairly and bona fide employed in receiving or discharging their cargoes, the said harbor master is hereby constituted the sole judge. *And further*, the said harbor master shall have authority to determine, how far and in what instances it is the duty of the masters and others having charge of ships and vessels to accommodate each other in their respective situations, and if any master or other person having charge of any ship or vessel shall refuse or neglect to obey the directions of the said harbor master in matters within his authority to direct, or if any person shall resist or oppose the said harbor master in the execution of the duties of his office, such master or other person having charge of any ship or vessel or other person whatsoever, shall for every such offence forfeit and pay the sum of fifty dollars to be recovered with costs of suit in the name of the treasurer of the hospital

* So in original; passed the Senate, March 30; the Assembly, April 2, 1801.

of the said city, before any court having cognizance thereof; all which fines when collected shall be paid to the said treasurer, for the use of the said hospital—

And be it further enacted, That it shall be the duty of the said harbor master to superintend and enforce the execution of all laws of this State and all bye laws of the corporation of the city of New York, for cleansing the docks and wharves, and for preventing and removing all nuisances whatsoever in or upon them or either of them—

Docks and wharves.

And be it further enacted, That it shall be the duty of all persons, acting as pilots in the port of New York, to register their names and places of abode respectively in the office of the harbor master, and the name, size and dimensions of the respective pilot boats used by them—

Registry of pilots.

And be it further enacted, That it shall be the duty of every master or person having charge of any pilot boat to report to the harbor master the time of his going out and returning into the harbor with the said boat, and each pilot shall report all ships and vessels inward or outward bound seen by him at sea, or at anchor within or without Sandy Hook; to the end that due notice thereof may be given to the commander in chief, and to the officer of the customs when necessary—

Reports to harbor master.

And be it further enacted, That the said harbor master shall have power to order any pilot, having charge of a pilot boat, to go out upon duty with the said boat, whenever in his judgment the safety of the navigation of the said port renders the going out of such boat necessary. And every pilot refusing or neglecting to perform any of the duties herein before imposed upon him, shall on due proof thereof made to the master and wardens of the said port, be subject to a fine not exceeding the sum of five dollars, to be recovered with costs of suit before any court having cognizance thereof in the name of the treasurer of the said hospital for the use thereof or to be rendered incapable of acting as a pilot thereafter, as in the judgment of the said master and wardens may be deemed proper—

Authority of harbor master over pilots.

And be it further enacted, That the said harbor master shall have power to appoint a deputy or deputies to assist him in the execution of the duties of his office, and the same to remove or displace and to appoint others in his or their stead; *and further* that the said harbor master shall have power to demand and receive from the commander, owners, and consignees or either of them of every ship or vessel, that may enter the port of New York and load, unload or make fast to any wharf therein, at and after the rate of one cent per ton to be computed from the tonnage expressed in the registers of such ships and vessels, respectively and no more. *Provided nevertheless* that nothing whatsoever shall be demanded by the said harbor master for the entrance into the port of New York of any vessel employed in the coasting trade, within the United States unless upon the application of the master or person having charge of any vessel employed in the coasting trade as aforesaid, the said harbor master shall interfere and adjust any difference which may happen respecting the situation or position of any such coasting vessel, which differences the said harbor master is hereby authorized to hear and determine, in which case the said harbor master may demand and recover in manner aforesaid from the party in default in the premises the sum of one dollar for every difference so by him adjusted and no more.—

Deputy harbor masters; tonnage fees; disputes.

And be it further enacted, That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, to appoint as often as shall be necessary one fit and proper person to be master and three or more fit

Wardens; pilots.

all things to the matters required of him by this act, the said chancellor, justice of the supreme court, or the said court of common pleas, shall direct a grant or assignment of all such insolvents estate, both in law and equity, in possession, reversion or remainder to be made by such insolvent, to the person or persons nominated by the petitioners or a majority of them, in respect to the amount of their said demands, on the said insolvent, except such articles of wearing apparel and bedding, as in the opinion of the chancellor, justice of the supreme court, or court of common pleas aforesaid, shall be reasonable and necessary for such insolvent, and for the family of such insolvent to retain; and also the arms and accoutrements of such insolvent, if any there are mentioned in such inventory, required by law to be provided by, any citizen enrolled in the militia —

Examina-
tion of
witnesses.

And be it further enacted, That it shall and may be lawful for the chancellor, justice, or court of common pleas before whom such petition shall be depending, upon application by any creditor of such insolvent, to examine such insolvent, his wife, the petitioning creditors, and any other person and persons upon oath, touching every matter, relative to the estate, debts and credits of the said insolvent, and for that purpose to issue a warrant, under the hand and seal of such chancellor or justice or of a judge of the said court of common pleas, requiring any person to appear and answer before the said chancellor, justice, or court of common pleas touching the matters by this act directed to be heard by them; and every person who being served by, such warrant, shall without reasonable cause refuse or neglect to appear, or appearing shall refuse to answer upon oath, touching the matters aforesaid, shall forfeit the sum of one hundred and twenty five dollars to be recovered with costs of suit by action of debt, by any person who will sue for the same, and shall also be committed to prison, by warrant or order of the said chancellor, justice or court there to remain without bail until he shall submit to answer upon oath as aforesaid.

Discharge
of insol-
vent.

VII. *And be it further enacted,* That upon such insolvent producing a certificate, under the hand and seal or the hands and seals of the assignee or assignees, executed in the presence of two witnesses, that such insolvent has granted, conveyed, assigned and delivered for the use of his creditors, all his estate real and personal, both in law and equity in possession, reversion or remainder, except as aforesaid, and all the books, vouchers and securities, relating to the same, the chancellor, justice or court of common pleas, shall discharge such insolvent, from all such debts, due at the time of the assignment, or contracted for before that time, though payable afterwards, and also, if in prison from his imprisonment; which discharge, or the record thereof, shall be a sufficient warrant and authority to the sheriff or goaler, for setting such prisoner at large; and the said discharge, or the record thereof, or transcript thereof duly authenticated, shall be also conclusive evidence in all courts, within this State of the facts therein contained.

Proceed-
ings by
creditors
to compel
assign-
ment.

And be it further enacted, That it shall and may be lawful for any creditor of any person, who hath or shall have been actually imprisoned for sixty days and upwards upon execution in any civil action, to apply in person or by attorney (if the principal resides without this State as aforesaid) to the chancellor, or any of the justices of the supreme court for relief, in case such creditor, or the said attorney, shall be apprehensive that the estate or effects of such debtor will be wasted or embezzled; and upon such application, and an affidavit being made by such creditor before a master in chancery, or justice of the supreme court, or in case of the residence of such creditor without this State,

then in the manner hereinbefore directed, that such person is justly indebted to such creditor, in a certain sum of money then due and to be specified in the said affidavit, and not less than twenty five dollars, and that such debtor is in prison, on execution issued against him, in some civil action, and has been so imprisoned for sixty days and upwards, the said chancellor or justice shall order a publication to be made in the manner herein before directed, for the creditors of such debtor to appear before him, at a certain day in the said order to be specified and not less than eight weeks, after the publication of such order, to shew cause, if any they have why, an assignment should not be made of the said debtor's estate, for the benefit of all his creditors; and upon that day, or at such subsequent days and times as the said chancellor, or justice may appoint, if so many of the creditors of such insolvent as he shall be satisfied have debts owing to them to the amount of three fourths in value of all the debts owing by such insolvent shall request an assignment to be made of the estate of such insolvent as aforesaid, and no good cause appears to the contrary, it shall be lawful for the said chancellor or justice to direct such assignment to be made, in like manner as if the parties had appeared before him, in consequence of a petition as aforesaid; each of the said creditors first making an affidavit, in the manner herein before directed, that the sum demanded by such creditor, is justly due to him, or will become due to him, at some future time to be specified in such affidavit; and that he or any other person, to his use hath not received from such insolvent, or any other person any payment of part of his demand against such insolvent, in money, or by sale, conveyance, assignment or delivery of any lands, tenements, hereditaments, goods chattels, or any thing in action, or any gift or reward whatsoever, upon any express or secret, or implied contract promise, trust or confidence, that he should consent to or request such assignment; and if such insolvent shall make such assignment in ten days thereafter, and shall conform to the directions of this act, with respect to petitioning debtors, such insolvent shall be thereupon discharged, in like manner as if he had petitioned for his discharge in conjunction with the creditors, pursuant to this act. But if such insolvent shall refuse or neglect to make such assignment as aforesaid, the said chancellor or justice shall execute an assignment of such insolvents estate, both in law and equity, in possession, reversion or remainder, to such person or persons as a majority of the creditors of such insolvent in respect to the amount of their demands appearing to him, shall nominate, and with the like exceptions, as are herein before mentioned; which assignment shall be equally valid, and the assignees shall have the like estate and power and be subject to the like duties, as if the same had been executed by, such insolvent, and shall vest in such assignees the whole of the estate which belonged to the said insolvent on the day of the first publication of the order so made as aforesaid—

And be it further enacted, That if the said insolvent shall so as aforesaid, refuse or neglect to make an assignment of his estate, such insolvent shall not be discharged from imprisonment by virtue of this act, unless so many of his creditors as shall have debts owing to them, to the amount of three fourths in value of all the debts, owing by such insolvent, shall petition the said chancellor or justice for his discharge, or unless such insolvent shall have delivered such inventory and account, and taken such oath, as is herein before prescribed, and so many of his creditors as aforesaid have accepted a dividend under such assignment—

When prisoner may be discharged.

Executors
and admin-
istrators.

And be it further enacted, That in all cases, where executors, or administrators shall deem it proper to become petitioning creditors for any insolvent debtor, such executors or administrators may present a petition to the chancellor of this State stating the reasons which induced them to think it advisable for them respectively to become petitioning creditors as aforesaid, whereupon the said chancellor shall as soon as he may deem it convenient, examine the allegations and reasons contained in such petition, in a summary manner; and if he shall thereupon be of opinion, that it will not be disadvantageous to the persons, interested in the personal estate of such testator or intestate, that the said executors or administrators, should become petitioning creditors as aforesaid, then and in every such case, he shall cause an entry of such opinion to be made in the minutes of the court of chancery and thereupon the said executors or administrators shall be fully authorized to become petitioning creditors as aforesaid, and shall be only chargeable with such sum of money as shall come to their hands from the estate of the insolvent —

Suits for
acts done.

XI. *And be it further enacted,* That any such insolvent having been discharged in conformity to this act if prosecuted for any debt or contract before mentioned, or if any other person be sued for any matter or thing done by virtue of this act, it shall be lawful for such person to plead the general issue and give the special matter in evidence —

Penalty
for perjury
or fraud.

XII. *And be it further enacted,* That in case any such insolvent shall be guilty of perjury, by concealing any part of his estate or effects, or shall after the assignment of his estate by virtue of this act receive any debt due to him before such assignment, or if he shall secrete any part of his estate, or any books or writings relative thereto, with intent to defraud his creditors, or shall fraudulently conceal any of his creditors, or the amount of the sum due any of them, or shall procure any person to become a petitioning creditor for any sum not bona fide due from him to such creditor, or for any larger sum than is really and bona fide due from such insolvent, to such creditor, to make such sum in value as is required by this act as aforesaid, then and in every such case, the discharge of the said insolvent, under this act shall be void, and his person and estate or effects, shall be subject to the payment, of all his former debts, as well to his petitioning creditors, as others, the said discharge to the contrary notwithstanding.

Conceal-
ment of
debtor's
property
by other
person.

XIII. *And be it further enacted,* That any person, who shall have accepted of any trust for any insolvent, or shall wilfully conceal or protect any estate, real or personal, of any insolvent, from the assignee or assignees of such insolvent, and shall not, in fifty days after notice of such assignment, being published in the news paper printed by the printer to this State, and one other of the public news papers printed in this State, fully discover and disclose such trust and estate to the said assignee or assignees he shall forfeit the sum of two hundred and fifty dollars, and double the value of the estate so concealed, to be recovered with costs by action of debt, in any court of record having cognizance thereof, in the name or names of the said assignee or assignees for the use and benefit of the creditors of such insolvent —

Penalty for
perjury by
creditor.

XIV. *And be it further enacted,* That if any person shall swear before a master in chancery, justice or judge as aforesaid, that any sum of money is due to him from any such insolvent, which sum of money, is not really due, or shall swear that more is due than is really due, knowing the same to be not due, and that such oath is false, such person shall be liable to pay double the sum so sworn to be due as aforesaid to be recovered by action of debt, in any court having cognizance thereof

in the name or names of the assignee or assignees of such insolvents estate, and to be divided among all the creditors of such insolvent, in proportion to their demands against such insolvents estate —

XV. *And be it further enacted*, That for the more full discovery of the estate of such insolvent, the chancellor or justice of the supreme court, or judge of the court of common pleas, at the request of the assignees, the survivors or survivor of them, shall have, at any time after such assignment as aforesaid, full power, and they are hereby required to summon and examine on oath, such insolvent, his wife, and every other person whomsoever, known or suspected to detain any part of the said insolvents estate, or to be indebted to it; and in case any person on such summons shall refuse to attend, having no reasonable excuse, or shall refuse to be sworn; then it shall be lawful for the said chancellor, or any of the justices of the supreme court, or such judge of the court of common pleas, to commit the person so refusing to gaol, until he shall submit to be examined concerning what he may know relating to such estate; and if any such person shall wilfully and knowingly affirm, or swear falsely, the person so offending shall be liable to the same pains and penalties, as those who are convicted of wilful and corrupt perjury—

Proceed-
ings to dis-
cover prop-
erty.

XVI. *And be it further enacted*, That every such insolvent, who shall before the delivery of such petition, have become bail in any cause, on account of which he has reason to think judgment may be had against him, and shall make oath that at the time he so became bail, he had a clear estate sufficient to answer any demand that could with any probability be made upon him as bail, may add to the account of the creditors, and the monies owing by him before directed to be given, an account of the manner of becoming bail, and annex such a sum as he shall imagine he will be liable to pay, on that account; and then the assignees shall reserve in their hands, for the space of one year and a half, such a dividend as a creditor for the like sum would have a right to receive; and after judgment obtained against any such insolvent the person obtaining the same, shall be considered in every respect, as another creditor, whose debt was due before the delivery of the petition. But if in the space of one year and a half after the petition is delivered no judgment shall be obtained against such insolvent, the monies so reserved shall be divided among the other creditors in the same manner as the rest of such insolvents estate, and such insolvent shall be discharged from all obligations as bail in the same manner as if the sum so annexed to the account of his creditors, was paid; and if judgment shall be obtained against such insolvent as bail, for any sum within one year and a half after the petition is delivered, and after the division of the produce of his estate, among his creditors, and the said insolvent shall have omitted, either wholly or in part, to annex the said sum to the account delivered, the person obtaining such judgment, shall recover against the said insolvent, either for the whole or part omitted, as the case shall happen to be, so much as the other creditors of the said insolvent, ought to have received for a like just debt, and no more. *Provided always*, that the sum for which judgment is obtained against such insolvent, being added to the account of his creditors, and of the monies owing to them before directed to be given the debts owing by him, to the petitioning creditors shall still appear to have been three fourths of all that was owing by the said insolvent—

When
debtor lia-
ble on bail
bond.

XVII. *And be it further enacted*, That all persons, who have given credit to such insolvent, on a valuable consideration, for any sum of money or other matter; which is or shall not be due or payable, at or

Debts not
due.

before the time of the delivery of the petition, shall be admitted as creditors whose debts are then due, and shall receive a dividend of such insolvent's estate, in the same proportion as the other creditors, deducting thereout only a rebate of interest at the rate of seven per cent for what shall be received on such debts (unless such debts shall be payable with interest) to be computed from the actual payment thereof, to the time they would have been due—

Power of assignee; division of estate.

And be it further enacted, That such assignee or assignees, shall have power to dispose of all the real and personal estate of such debtor which shall be assigned to him or them, or which ought by virtue of this act to be assigned to him or them, and to convert the same into money; to execute good and sufficient deeds for such real and personal estate; to redeem all mortgages and conditional contracts and satisfy all judgments, and to recover in his or their name or names all such real and personal estate of such insolvent, and all deeds and books of accounts, and papers respecting the same, and shall have full power to refer to arbitration, settle or compound with any person indebted to the insolvent in such manner as shall from time to time appear to such assignee or assignees, most advantageous to the creditors of such insolvent; and shall within the space of one year proceed to make a division of all the money, which shall have come to his or their hands, of such estate, first giving three months notice of the time and place of making such division, by advertising the same in the news-paper printed by the printer to this State, and in one other of the public news papers printed in this State, and if the whole be not then settled, shall within the space of one year thereafter make a second division of such monies as may come to his or their hands, after the first division and so from year to year, until a final settlement thereof, and a just and equal division of the whole be made; and if on settling the estate of the insolvent, a surplus should remain in their possession after discharging the debts of the said insolvent, the same shall be paid to the said insolvent or his legal representatives.

Mutual accounts.

And be it further enacted, That where it shall appear to the assignee or assignees of any insolvent debtor, who hath been or shall be discharged under this act, that there hath been mutual credit given by the said insolvent, and any other person, or that mutual debts subsisted between the said insolvent, and any other person, before such insolvent presented his petition, praying the benefit of this act, the assignee or assignees of such insolvent, shall state the account between them, and one debt may be set against another, and what shall appear to be due on the balance of such account, and on setting such debts against one another, and no more, shall be claimed or paid on either side respectively.

General meeting of creditors; disputes.

And be it further enacted, That the assignees, or the survivors or survivor of them shall at least, one month before a division be made, appoint a day by advertising the same in one or more of the public news papers for a general meeting of all such creditors as shall choose to attend, to examine and ascertain the debts due to each creditor, and in case of any controversy relating to such debts, it shall be determined in the following manner, that is to say, the assignees, shall nominate two referees, not being creditors of the insolvent, and the creditor whose debt is in controversy shall nominate two others, and their names shall be separately written on four pieces of paper, as nearly of the same size as possible, which shall be rolled up in the same manner, and put into a box, and from thence one of the assignees shall draw out three of the said pieces of paper, and the persons whose names are so drawn, shall

finally settle such controversy, and if any referee, so appointed, shall refuse or be incapable of acting in a reasonable time, a new choice shall be made in the same manner; and in case any such creditor shall refuse to nominate referees on his part, the assignees are hereby empowered to nominate them for him —

And be it further enacted, That the assignee or assignees, shall before he or they enter upon the execution of the trust committed to him or them, by virtue of this act, take an oath, to be administered by a master in chancery, a justice of the supreme court, or any of the judges of the court of common pleas aforesaid, well and faithfully to manage the insolvents estate, and keep and render a true account of all that shall come to his or their hands of the same, and for that purpose he or they shall keep regular books of account, to which every creditor at all reasonable times, may have recourse, and for the care and trouble incumbent on the assignee or assignees, he or they shall be allowed out of the insolvents estate, such a consideration as the petitioners or a major part of them, shall agree and fix upon; and that all costs of suit, prison, and gaol fees, and charges of proceedings under this act, to obtain the discharge of the insolvent shall be first paid, and then deducting all such costs, charges and expences, as shall be necessarily, laid out and expended by the assignee or assignees together with his or their commissions for his or their care and trouble therein the residue shall be divided equally, among the creditors, in which division no preference shall be given to debts due by speciality —

Oath of assignee
competent
tion.

And be it further enacted, That no suit in equity shall be commenced by any assignee, without the consent of the majority of the petitioners or creditors, who consented to the assignment with respect to the amount of their debts as aforesaid, at a meeting held for that purpose; and if any creditor shall neglect or refuse to give notice of and prove his debt, within one year and an half, after the assignment, and a division of the whole estate be made, such creditor shall not be entitled to a dividend, and the whole money shall be divided by the assignees, among the other creditors; but in case the whole of such insolvents estate shall not be divided and settled by the time by this act appointed for the first division, and such creditor shall prove his debt, before the time appointed for the second division, then such creditor shall before a second division be made among the other creditors, have his said dividend or so much money as he would have been entitled to, on the first division, had his debt been then proved; but no creditor shall be permitted to prove his debt, in order to entitle himself to a share in the insolvents estate, after a second division, but shall by this act be debarred from any share thereof —

Actions
assignee
failure b
creditor
prove
claim

And be it further enacted, That every insolvent, who shall be discharged by virtue of this act, and in all things conform to the directions thereof, shall be allowed the sum of five per cent. on the net produce of all his estate, that shall be recovered or received, by the said assignee or assignees, to be paid to him, by such assignee or assignees, in case the net produce of the said estate, after such allowance made, shall be sufficient to pay the creditors of such insolvent, who shall prove their debts in the manner directed by this act, the sum of seventy cents in the dollar, and so as the said five per cent shall not amount in the whole to above the sum of five hundred dollars —

Percent-
age to be
paid in-
solvent.

And be it further enacted, That nothing in this act contained, shall be construed to deprive landlords of the right of distraining for or securing their rents, which by law they had before the making of this act.

Rights of
landlord

Power of
recorder of
New York
city.

XXV. *And be it further enacted*, That the recorder of the city of New York, shall be ex officio, a commissioner, equally authorized and required with a judge of the supreme court to do and execute the powers and trusts which such judge is authorized and required to do and execute by virtue of this act; and that whenever, upon the application of an insolvent debtor or his creditors, day may be given, by a judge of the supreme court, or the chancellor to attend in the said city of New York, in case of the death sickness or absence of the chancellor or judge, the said commissioner shall discharge the duties required by this act in the like manner as might have been done by the said chancellor or judge.—

CHAP. 132.

AN ACT relative to the harbor master, and master and wardens and pilots of the port of New York—

PASSED the 3rd of March,* 1801.

Harbor
master,
appoint-
ment of.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the person administering the government of this State, by and with the advice and consent of the council of appointment shall from time to time as often as it shall be requisite, appoint some proper person to be harbor master of the port of New York, and the said harbor master, before he enters upon the duties of his office, shall, execute a bond to the people of this State, with two sufficient sureties to be approved of by the mayor of the city of New York in the penal sum of two thousand five hundred dollars, conditioned for the faithful and impartial fulfilment of the duties required of him by this act, and shall also take an oath, truly and faithfully to execute the same, to be administered by the said mayor. *Provided however* that the harbor master already appointed shall continue in office during the pleasure of the said council—

Authority
of harbor
master.

And be it further enacted, That the said harbor master shall have authority to regulate and station all ships and vessels in the stream of the East and North rivers within the limits of the city of New York, and at the wharves thereof, and to remove from time to time such ships or vessels as are not employed in receiving or discharging their cargoes, to make room for such others as require to be more immediately accommodated for the purpose of receiving or discharging theirs, and as to the fact of their being fairly and bona fide employed in receiving or discharging their cargoes, the said harbor master is hereby constituted the sole judge. *And further*, the said harbor master shall have authority to determine, how far and in what instances it is the duty of the masters and others having charge of ships and vessels to accommodate each other in their respective situations, and if any master or other person having charge of any ship or vessel shall refuse or neglect to obey the directions of the said harbor master in matters within his authority to direct, or if any person shall resist or oppose the said harbor master in the execution of the duties of his office, such master or other person having charge of any ship or vessel or other person whatsoever, shall for every such offence forfeit and pay the sum of fifty dollars to be recovered with costs of suit in the name of the treasurer of the hospital

* So in original; passed the Senate, March 30; the Assembly, April 2, 1801.

of the said city, before any court having cognizance thereof; all which fines when collected shall be paid to the said treasurer, for the use of the said hospital—

And be it further enacted, That it shall be the duty of the said harbor master to superintend and enforce the execution of all laws of this State and all bye laws of the corporation of the city of New York, for cleansing the docks and wharves, and for preventing and removing all nuisances whatsoever in or upon them or either of them—

Docks and wharves.

And be it further enacted, That it shall be the duty of all persons, acting as pilots in the port of New York, to register their names and places of abode respectively in the office of the harbor master, and the name, size and dimensions of the respective pilot boats used by them—

Registry of pilots.

And be it further enacted, That it shall be the duty of every master or person having charge of any pilot boat to report to the harbor master the time of his going out and returning into the harbor with the said boat, and each pilot shall report all ships and vessels inward or outward bound seen by him at sea, or at anchor within or without Sandy Hook; to the end that due notice thereof may be given to the commander in chief, and to the officer of the customs when necessary—

Reports to harbor master.

And be it further enacted, That the said harbor master shall have power to order any pilot, having charge of a pilot boat, to go out upon duty with the said boat, whenever in his judgment the safety of the navigation of the said port renders the going out of such boat necessary. And every pilot refusing or neglecting to perform any of the duties herein before imposed upon him, shall on due proof thereof made to the master and wardens of the said port, be subject to a fine not exceeding the sum of five dollars, to be recovered with costs of suit before any court having cognizance thereof in the name of the treasurer of the said hospital for the use thereof or to be rendered incapable of acting as a pilot thereafter, as in the judgment of the said master and wardens may be deemed proper—

Authority of harbor master over pilots.

And be it further enacted, That the said harbor master shall have power to appoint a deputy or deputies to assist him in the execution of the duties of his office, and the same to remove or displace and to appoint others in his or their stead; *and further* that the said harbor master shall have power to demand and receive from the commander, owners, and consignees or either of them of every ship or vessel, that may enter the port of New York and load, unload or make fast to any wharf therein, at and after the rate of one cent per ton to be computed from the tonnage expressed in the registers of such ships and vessels, respectively and no more. *Provided nevertheless* that nothing whatsoever shall be demanded by the said harbor master for the entrance into the port of New York of any vessel employed in the coasting trade, within the United States unless upon the application of the master or person having charge of any vessel employed in the coasting trade as aforesaid, the said harbor master shall interfere and adjust any difference which may happen respecting the situation or position of any such coasting vessel, which differences the said harbor master is hereby authorized to hear and determine, in which case the said harbor master may demand and recover in manner aforesaid from the party in default in the premises the sum of one dollar for every difference so by him adjusted and no more.—

Deputy harbor masters; tonnage fees; disputes.

And be it further enacted, That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, to appoint as often as shall be necessary one fit and proper person to be master and three or more fit

Wardens; pilots.

and proper persons to be wardens of the said port of New York who shall be called the master and wardens of the port of New York, and also a sufficient number of persons to be branch pilots of the said port, each of which branch pilots may appoint one deputy under him. And it shall also be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment to appoint so many branch pilots as shall be necessary for the safe pilotage of vessels, to and from the port of New York, through the channel of the East river or sound commonly called Hell Gate. *Provided however*, that the several persons who are now master and wardens and branch pilots and deputies aforesaid may respectively continue in office, until others shall be appointed in their stead; *and provided further* that no person shall be commissioned as a branch pilot or appointed a deputy pilot until he shall have obtained a certificate from the master and wardens aforesaid or any three of them under their hands, that he is duly qualified for such office, and if any person not commissioned or appointed as aforesaid, shall pilot any ship or other vessel going into or out of the said port from or to Sandy Hook, when a branch or deputy pilot offers, he shall forfeit and pay the sum of twelve dollars and fifty cents; or if any such person shall pilot any ship or vessel other than vessels employed in the coasting trade between the port of New York and any port of the United States through the sound or Hell Gate or shall pilot in like manner any coasting vessel exhibiting the usual signal for a pilot to come on board when a branch pilot offers, he shall forfeit and pay the sum of seven dollars—

Qualifications of pilots.

Oath of office.

And be it further enacted, That the master and wardens hereafter to be appointed before they enter upon the execution of their said offices, shall severally take an oath before the mayor or recorder of the city of New York in the words following, to wit; "I will well truly and faithfully according to the best of my skill and understanding, execute the powers and duties vested in or enjoined on me by law as master, or one of the wardens (as the case may be) of the port of New York, so help me God"—

Office of master and wardens; clerk; fees of pilots.

And be it further enacted, That the said master and wardens shall keep an office in the city of New York and shall cause to be made in a book to be kept for that purpose an entry of all their proceedings by virtue of this act to which all persons may have recourse and they shall appoint a clerk who may receive all pilotage money, which shall become due to any pilot, or deputy pilot, and on neglect or refusal of payment by the person who ought to pay the same, may sue for and recover the same in his own name with costs before any court having cognizance thereof; and the said clerk shall keep a separate account with each pilot of all monies received to his use, and shall once in every three months pay the same to them respectively after deducting five per cent for his trouble; and all fines and forfeitures arising under this act except the forfeited recognizances of pilots and deputy pilots, shall be sued for and recovered as aforesaid by and in the name of such clerk and no such suit shall discontinue or abate by the death, resignation or removal from office of such clerk and all such fines and forfeitures and the sums recovered on any forfeited recognizance, and not applied in discharge of damages as hereinafter mentioned shall be paid to the said master and wardens, and be by them applied towards defraying the necessary expenses arising in the execution of their trust; and every such clerk shall enter into bond with one or more sureties to the said master and wardens in the sum of one thousand two hundred and fifty dollars, condi-

tioned that he will well and faithfully discharge the trusts reposed in him by this act —

And be it further enacted, That every branch pilot or deputy pilot of the port of New York hereafter to be appointed, before he takes upon himself the execution of his office, shall enter into a recognizance to the people of this State, before the mayor or recorder of the city of New York, with two sufficient sureties to be approved by the master and wardens aforesaid, or any three of them in the sum of two hundred and fifty dollars with condition that he will diligently and faithfully execute the trust reposed in him as a pilot or deputy pilot (as the case may be) according to the directions of this act and such rules and orders as shall be given him in pursuance thereof; and every such recognizance if forfeited may at the request of any person aggrieved be prosecuted in the supreme court or in the mayors court of the said city to judgment and execution as in other cases, and the amount of such recognizances when recovered and received shall by an order of the court in which the same is recovered, be paid to the said master and wardens; and the said master and wardens or any three of them shall in such case and also at any time after suit brought on such recognizance if requested by any party interested therein examine into and ascertain the damages sustained by the person so aggrieved, and shall apply the monies so to be received, or as much as shall be requisite to pay the damages so ascertained, and shall make report in writing to the court in which such recovery shall be had of the damages so ascertained and paid. *Provided however,* that if the branch or deputy pilot so offending shall before judgment obtained on his recognizance as aforesaid pay to the party aggrieved the damages to be ascertained by the said master and wardens in manner aforesaid, together with the costs of suit, the suit on such recognizance shall be discontinued —

Bonds of pilots.

And be it further enacted, That the said master and wardens or any two of them, shall be surveyors of damaged goods brought into the port of New York in any ship or vessel; and with the assistance of one or more skilful carpenters, shall be surveyors of any vessel deemed unfit to proceed to sea; and they shall upon every such survey certify under their hands, how the goods or vessel surveyed appeared to them and shall cause an entry to be made in a book to be kept for that purpose in their office for which certificate and entry, their clerk shall be entitled to one dollar and twenty five cents, and the said wardens shall severally be entitled for their services as surveyors aforesaid at the rate of two dollars and fifty cents per day —

Surveyors of goods and vessels.

And be it further enacted, That neither the master or any of the wardens aforesaid shall be concerned directly or indirectly in any pilot boat, or with any branch pilot in respect to the business of his trust —

Master and wardens not to be interested with pilots.

And be it further enacted, That the said master and wardens with the consent of the person administering the government of this State, may make such rules and orders for the better government of the said pilots, as they shall deem proper, and the same from time to time, revoke or amend; and any three of the said master and wardens may impose fines for the breach of any such rules and orders, upon any of the said pilots or deputy pilots. *Provided however* that no fine for any offence shall exceed twenty five dollars, unless any branch pilot or his deputy shall neglect or refuse to give all the assistance in his power to any ship or other vessel appearing in distress on the coast or in want of a pilot, and in such case every pilot or his deputy so offending shall at the discretion of any three of the said master and wardens be fined in any sum not less than twelve dollars and fifty cents nor more than fifty dollars, or be sus-

Rules and orders for government of pilots.

pended from his office until the pleasure of the council of appointment be known —

Instructions to be furnished.

And be it further enacted, That the said master and wardens shall furnish every pilot and deputy pilot aforesaid with printed instructions to be shewn by such pilot to the master or commander of every vessel as soon as he shall go on board to take charge of such vessel to pilot her into the said port —

Vacancies among pilots.

And be it further enacted, That the master and wardens aforesaid or any three of them may supply vacancies happening in the office of branch pilot aforesaid, during the recess of the council of appointment, by appointment under their hands and seals to continue for any term therein specified not exceeding six months and every person so appointed shall during the time for which he shall be appointed, be subject to the like duties and penalties as other branch pilots —

Pilot boats.

And be it further enacted, That every pilot boat except those that were in use on the sixteenth day of March one thousand seven hundred and ninety eight, shall not be less in the length of keel than thirty nor more than forty five feet, including the whole length of the scarf, and every branch pilot of the port of New York shall be owner or part owner of a pilot boat and shall keep such boat exclusively employed as a pilot boat, and every such branch pilot not owning or employing a pilot boat as aforesaid shall forfeit his office, and in the mean time shall be suspended as aforesaid by any three of the master and wardens aforesaid — *And further* that the branch and deputy pilots of the said port of New York shall at their joint expence keep a good and sufficient whale boat at Sandy Hook, furnished with a sufficient number of oars, and in good repair, and the clerk of the said master and wardens, shall from time to time out of the monies received for pilotage retain sufficient in his hands to keep the said boat in repair and furnished as aforesaid —

Extra service by pilots.

And be it further enacted, That the master or owners of any ship or vessel appearing in distress, and in want of a pilot on the coast, shall pay unto such branch or deputy pilot who shall have exerted himself for the preservation of such ship or vessel, such sum for extra services as the said master or owner and pilot can agree upon, and in case no such agreement can be made, the master and wardens aforesaid or any three of them, shall determine, what is a reasonable reward, and the sum so determined by them shall be collected in the manner by this act directed for the collection of pilotage.

Where vessel refuses to take on pilot.

And be it further enacted, That if the master of any ship or vessel coming to the port of New York, shall refuse to receive on board and employ a pilot, the master or owner of such vessel shall pay to such pilot, who shall have offered to go on board and take charge of the pilotage of such vessel, half pilotage from the place at which such pilot shall have offered himself, to the said port of New York. —

Pilotage of outward bound vessels.

And be it further enacted, That the pilotage for any vessel outward bound shall be paid or secured to be paid to the clerk of the wardens aforesaid, for the use of the pilot who shall take charge of the vessel before she breaks ground in the port of New York, and if the pilot for whose use such pilotage money shall have been paid or secured as aforesaid, shall not do his duty in piloting such vessel, the pilotage money paid shall be restored, and the security given become void. —

Where pilot carried off to sea.

And be it further enacted, That if any vessel going out of the port of New York, shall carry off to sea, through the default of the master or owner of such vessel, any pilot or deputy pilot when a boat is attending to receive such pilot or deputy pilot from on board of such vessel, the master or owner of such vessel shall pay to the master and wardens of

the port of New York for the use of such pilot or deputy pilot, besides the pilotage of such vessel the like wages per month until he shall return to the port of New York as the monthly wages allowed to the mate of such vessel: *Provided*, that such pilot or deputy pilot shall have performed the duties required of him by this act; and *provided also* that such pilot or deputy, shall as far as in his power perform the usual duties of a seamen on board of such vessel after being so carried off: And if any money shall have been paid to such pilot by the master or owner of, or factor for such vessel, the same shall be deducted from the monies to be paid to the clerk of the master and wardens for the use of such pilot or deputy pilot.—

And be it further enacted, That it shall be lawful for every branch or deputy pilot aforesaid to ask and receive pilotage from any person who shall employ him to pilot any ship or other vessel, from the eastward or southward of the outer middle ground bar, or east bank to the port of New York and shall there safely moor such vessel or take her to a proper wharf as the master of such vessel may desire; and likewise from any person who shall employ him to pilot any ship or other vessel from the port of New York to the eastward and southward of the said outer or middle ground bar or east bank so far that such vessel may safely proceed to sea, at the rate of one dollar and twenty five cents, for every foot of water such ship or vessel shall draw; *provided* that no more than half pilotage, at the rate aforesaid, shall be demanded or received by any such pilot, who shall to the westward of the said middle ground or east bank, take charge of any ship or other vessel coming into the port of New York. *And provided also*, that no pilotage whatsoever shall be demanded or received by any such pilot, for any such ship or other vessel coming into the said port of New York, unless such pilot shall take charge of such ship or vessel to the south of the upper middle ground.

Rates of pilotage.

And be it further enacted, That between the first day of December and the first day of March inclusive, in every year every such pilot may ask and receive the additional sum of four dollars for any ship or other vessel drawing ten feet water and upwards, and for every ship or other vessel drawing less than ten feet water, the additional sum of two dollars.—

Additional pilotage in winter season.

And be it further enacted, That it shall be lawful for every branch pilot or deputy pilot aforesaid to ask and receive from any person who shall employ him to pilot any ship or other vessel being a foreign bottom, the sum of two dollars and fifty cents on every such ship or vessel in addition to the rates of pilotage allowed as aforesaid —

Foreign bottoms.

And be it further enacted, That for every day which any pilot aforesaid shall be required to remain, or be detained on board any ship or other vessel, by the master thereof waiting for a fair wind, or otherwise, he may demand and receive the sum of one dollar and fifty cents —

Where pilot detained.

And be it further enacted, That every branch pilot appointed to pilot vessels through the East river or sound, commonly called Hell Gate, may demand and receive from the master of any ship or vessel, to whom he shall tender his services as a pilot and by whom the same shall be refused, and for detention on board of any vessel waiting for a fair wind or otherwise, the same compensation as is herein before allowed to the other branch pilots of the port of New York, and in all other cases they may demand and receive such rates of pilotage as shall be established by the master and wardens aforesaid for such pilots — *Provided however*, that nothing shall be demanded or received, from the master or owner of any vessel employed in the coasting trade between the port of New York and any port of the United States for refusing to receive and employ such pilot —

Hell Gate pilots.

pended from his office until the pleasure of the council of appointment be known —

**Instruc-
tions to be
furnished.**

And be it further enacted, That the said master and wardens shall furnish every pilot and deputy pilot aforesaid with printed instructions to be shewn by such pilot to the master or commander of every vessel as soon as he shall go on board to take charge of such vessel to pilot her into the said port —

**Vacancies
among
pilots.**

And be it further enacted, That the master and wardens aforesaid or any three of them may supply vacancies happening in the office of branch pilot aforesaid, during the recess of the council of appointment, by appointment under their hands and seals to continue for any term therein specified not exceeding six months and every person so appointed shall during the time for which he shall be appointed, be subject to the like duties and penalties as other branch pilots —

Pilot boats.

And be it further enacted, That every pilot boat except those that were in use on the sixteenth day of March one thousand seven hundred and ninety eight, shall not be less in the length of keel than thirty nor more than forty five feet, including the whole length of the scarf, and every branch pilot of the port of New York shall be owner or part owner of a pilot boat and shall keep such boat exclusively employed as a pilot boat, and every such branch pilot not owning or employing a pilot boat as aforesaid shall forfeit his office, and in the mean time shall be suspended as aforesaid by any three of the master and wardens aforesaid — *And further* that the branch and deputy pilots of the said port of New York shall at their joint expence keep a good and sufficient whale boat at Sandy Hook, furnished with a sufficient number of oars, and in good repair, and the clerk of the said master and wardens, shall from time to time out of the monies received for pilotage retain sufficient in his hands to keep the said boat in repair and furnished as aforesaid —

**Extra
service by
pilots.**

And be it further enacted, That the master or owners of any ship or vessel appearing in distress, and in want of a pilot on the coast, shall pay unto such branch or deputy pilot who shall have exerted himself for the preservation of such ship or vessel, such sum for extra services as the said master or owner and pilot can agree upon, and in case no such agreement can be made, the master and wardens aforesaid or any three of them, shall determine, what is a reasonable reward, and the sum so determined by them shall be collected in the manner by this act directed for the collection of pilotage.

**Where ves-
sel refuses
to take on
pilot.**

And be it further enacted, That if the master of any ship or vessel coming to the port of New York, shall refuse to receive on board and employ a pilot, the master or owner of such vessel shall pay to such pilot, who shall have offered to go on board and take charge of the pilotage of such vessel, half pilotage from the place at which such pilot shall have offered himself, to the said port of New York —

**Pilotage of
outward
bound
vessels.**

And be it further enacted, That the pilotage for any vessel outward bound shall be paid or secured to be paid to the clerk of the wardens aforesaid, for the use of the pilot who shall take charge of the vessel before she breaks ground in the port of New York, and if the pilot for whose use such pilotage money shall have been paid or secured as aforesaid, shall not do his duty in piloting such vessel, the pilotage money paid shall be restored, and the security given become void —

**Where
pilot car-
ried off to
sea.**

And be it further enacted, That if any vessel going out of the port of New York, shall carry off to sea, through the default of the master or owner of such vessel, any pilot or deputy pilot when a boat is attending to receive such pilot or deputy pilot from on board of such vessel, the master or owner of such vessel shall pay to the master and wardens of

the port of New York for the use of such pilot or deputy pilot, besides the pilotage of such vessel the like wages per month until he shall return to the port of New York as the monthly wages allowed to the mate of such vessel: *Provided*, that such pilot or deputy pilot shall have performed the duties required of him by this act; *and provided also* that such pilot or deputy, shall as far as in his power perform the usual duties of a seamen on board of such vessel after being so carried off: And if any money shall have been paid to such pilot by the master or owner of, or factor for such vessel, the same shall be deducted from the monies to be paid to the clerk of the master and wardens for the use of such pilot or deputy pilot.—

And be it further enacted, That it shall be lawful for every branch or deputy pilot aforesaid to ask and receive pilotage from any person who shall employ him to pilot any ship or other vessel, from the eastward or southward of the outer middle ground bar, or east bank to the port of New York and shall there safely moor such vessel or take her to a proper wharf as the master of such vessel may desire; and likewise from any person who shall employ him to pilot any ship or other vessel from the port of New York to the eastward and southward of the said outer or middle ground bar or east bank so far that such vessel may safely proceed to sea, at the rate of one dollar and twenty five cents, for every foot of water such ship or vessel shall draw; *provided* that no more than half pilotage, at the rate aforesaid, shall be demanded or received by any such pilot, who shall to the westward of the said middle ground or east bank, take charge of any ship or other vessel coming into the port of New York. *And provided also*, that no pilotage whatsoever shall be demanded or received by any such pilot, for any such ship or other vessel coming into the said port of New York, unless such pilot shall take charge of such ship or vessel to the south of the upper middle ground.

Rates of pilotage.

And be it further enacted, That between the first day of December and the first day of March inclusive, in every year every such pilot may ask and receive the additional sum of four dollars for any ship or other vessel drawing ten feet water and upwards, and for every ship or other vessel drawing less than ten feet water, the additional sum of two dollars.—

Additional pilotage in winter season.

And be it further enacted, That it shall be lawful for every branch pilot or deputy pilot aforesaid to ask and receive from any person who shall employ him to pilot any ship or other vessel being a foreign bottom, the sum of two dollars and fifty cents on every such ship or vessel in addition to the rates of pilotage allowed as aforesaid —

Foreign bottoms.

And be it further enacted, That for every day which any pilot aforesaid shall be required to remain, or be detained on board any ship or other vessel, by the master thereof waiting for a fair wind, or otherwise, he may demand and receive the sum of one dollar and fifty cents —

Where pilot detained.

And be it further enacted, That every branch pilot appointed to pilot vessels through the East river or sound, commonly called Hell Gate, may demand and receive from the master of any ship or vessel, to whom he shall tender his services as a pilot and by whom the same shall be refused, and for detention on board of any vessel waiting for a fair wind or otherwise, the same compensation as is herein before allowed to the other branch pilots of the port of New York, and in all other cases they may demand and receive such rates of pilotage as shall be established by the master and wardens aforesaid for such pilots — *Provided however*, that nothing shall be demanded or received, from the master or owner of any vessel employed in the coasting trade between the port of New York and any port of the United States for refusing to receive and employ such pilot —

Hell Gate pilots.

CHAP. 133.

AN ACT concerning the court of chancery and the proceedings therein—

PASSED the 3rd of April, 1801.

Seals of
court of
chancery.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That there shall be three seals of the court of chancery and the descriptions of the same in writing deposited and recorded in the office of the secretary of this State, shall there remain as public records thereof and that all commissions, writs, processes, and other proceedings which according to the course and practice of the said court since the sixteenth day of March one thousand seven hundred and seventy eight, have issued under the seal of the said court, shall continue to be so issued, and shall be equally valid when issued under either of the said seals.

Where
deposited.

And be it further enacted, That the chancellor shall cause the said seals to be deposited at such places as he shall deem most convenient for the administration of justice—

Filing of
decrees.

And be it further enacted, That it shall not be necessary to enroll any decree or dismissal to be made or given in the said court of chancery, but that in all cases the clerks of the said court shall immediately after any decree or dismissal is pronounced, deliver the bill and answer or answers and other pleadings, if there be any in such cause, to the register of the said court, who shall annex them together and file the same in his office, and the register shall thereupon draw up and engross the decree or dismissal in the same cause with such reports and decretal orders, as may have been made therein, but without any recital of the bill, answer or pleadings and shall annex the same after it is signed by himself, and the chancellor, to the said bill, answer and pleadings in the same cause, which shall be of the same force and effect as if such decree or dismissal had been enrolled—

When
paper may
be used.

And be it further enacted, That it shall be lawful to use paper instead of parchment in all proceedings in the same court, except as to the processes of the same; and that all proceedings in the same court which have heretofore been supposed to be before the people of this State shall hereafter be before the chancellor.

Death of
one of
parties,
where
action sur-
vives.

And be it further enacted, That if in any action in the said court of chancery, there be two or more plaintiffs or defendants, and one or more of them shall die, if the cause of such action shall survive to the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants, such action shall not be thereby abated; but such death being suggested and shown by affidavit or otherwise, to the satisfaction of the court, such action shall proceed at the suit of the surviving plaintiff or plaintiffs against the surviving defendant or defendants—

Id., where
cause of
action
shall not
survive.

And be it further enacted, That in every action in the said court in which there shall be two or more plaintiffs or defendants and any one of them shall die, and the cause of action shall not survive, but other persons shall become parties in interest, such action shall, by reason of such death be abated only with respect to the person deceased, and the surviving parties may proceed without reviving the suit against the representatives of the deceased, or any other person who has become interested therein; but no order or decree of the court, in such cause shall bind any person who is not a party thereto: And in case the plaintiff

or plaintiffs shall chuse to make the representatives of the deceased person, or others, who may become interested by the death of such person, parties to such suit, no bill of revivor or subpoena ad revivendum, shall be necessary, but the court shall and may, by rule or order, as often as there shall be occasion, direct the suit to stand revived, which rule or order shall be served on the adverse clerk, and unless the representatives of such deceased person, or others who may become interested, by the death of such person, shall, within eighty days after such service as aforesaid, appear and put in their answer, or signify their disclaimer of the suit, and the matters in controversy therein, the plaintiff or plaintiffs may cause their appearance to be entered; and in such case the answer of the deceased person shall be deemed and taken as and for the answer of such representatives or other persons interested by the death of such person — *And further*, that in case any plaintiff in any such suit wherein the cause of action shall not survive shall die pending the same, his lawful representatives, or any other person interested by his death may on affidavit thereof and on motion in open court be inserted as complainant in the suit and be permitted to amend the bill, as his interest may require, to which amendment the defendant shall be compellable to answer, and the action shall proceed to issue and trial as in ordinary cases; and in case any such person shall not in eighty days after such death of the plaintiff cause himself to be entered as complainant as aforesaid, then the surviving plaintiff may insert his name as a defendant in the suit and proceed as before directed in cases where the representatives of a deceased defendant are made parties —

And be it further enacted, That no subpoena or any process for appearance shall issue out of the court of chancery, until after the bill is filed with the proper officer in the said court, except in cases of bills for injunctions to stay waste, or to stay suits at law; and that no injunction shall be issued in any case until the bill is filed as aforesaid, *and further* that no copy, abstract or tenor of any bill in equity shall go with the *Subpoenas.* dedimus or commission for taking the defendant's answer —

And be it further enacted, That if in any suit in the said court, any defendant against whom any process shall issue, shall not cause his appearance to be entered upon such process, within such time, and in such manner as, according to the rules of the said court, the same ought to have been entered, in case such process had been duly served; or if any such defendant after service of any subpoena or other process so issued out of the said court, shall neglect or refuse to enter his appearance, within such time and in such manner as is directed by the rules of the said court, and affidavit shall be made to the satisfaction of the said court, that the said defendant is out of this State, or doth conceal himself therein, the said court shall and may make an order, directing such defendant to appear at a certain day therein to be mentioned, and a copy of such order shall, within twenty days, be inserted in one or more of the public news papers printed in this State, and be published therein eight weeks successively, at least once in each of the said weeks, and if the defendant do not appear within the time limited by the said order, or within such further time as the court shall appoint, then, on proof to the satisfaction of the court, that such order was duly published as aforesaid, the said court may order the plaintiffs bill to be taken pro confesso, and make such decree thereupon as shall be thought just; and may thereupon issue process to compel the performance of such decree, either by an immediate sequestration of the real and personal estate and effects of the defendant so absent as aforesaid, or such part thereof as may be sufficient to satisfy the demands of the plaintiff in the said suit, *Appearance by defendant.*

or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff; and the said court of chancery may likewise order such plaintiff to be paid and satisfied his demands out of the estate or effects so sequestered, according to the true intent and meaning of such decree; such plaintiff first giving sufficient security in such sum as the court shall think proper, to abide such order touching the restitution of such estate and effects as the said court shall think proper to make concerning the same, upon the defendants appearance to defend such suit, and paying such costs to the plaintiff, as the court shall order; but if the plaintiff shall refuse or neglect to give such security as aforesaid, then the said estate or effects shall remain under the direction of the said court, until the appearance of the defendant and his paying such costs to the plaintiff as the said court shall think reasonable, or until such order shall be made therein as the court shall think just—

Decrees
against
absent
persons.

And be it further enacted, That if any decree shall be made, against any person so absent as aforesaid, and such person, his heirs, devisees, executors or administrators (as the case may require) shall within one year after notice in writing given him, of such decree, or, if no such notice be given, then within seven years after the making of such decree, appear in court, and petition to be heard with respect to the matter of such decree, and shall pay, or give security for payment of such costs as the court shall think reasonable in that behalf; the person so petitioning, may be admitted to answer the bill exhibited in such cause, and such proceedings shall thereupon be had, as if the absent defendant had originally appeared, and no such decree had been made therein, but if such person or his representatives shall not within seven years next after making such decree, appear and petition, and pay or give security for the costs as aforesaid such decree shall stand confirmed against such person and all claiming under him by virtue of any act done subsequent to the commencement of such suit, and at the end of the said seven years the court may make such further order as shall be just and reasonable in the case—

Entry of
appear-
ance by
order of
court.

And be it further enacted, That if any defendant shall be brought into the said court of chancery, by any writ of habeas corpus, or other process issuing out of the said court, and shall refuse or neglect to enter his appearance, according to the rules of the said court, or to appoint a clerk in court to act on his behalf, the said court may appoint a clerk to enter an appearance for such defendant, and such proceedings may thereupon be had in the cause, as if the party had actually appeared—

Where
chancellor
a party.

And be it further enacted, That where the chancellor, shall be party to a suit in chancery either as complainant or defendant the bill shall be filed before the chief justice of the State, and prosecuted in the same manner as other bills in chancery are usually prosecuted; and the said chief justice, is hereby authorized and empowered to hear and determine such suit, agreeable to the rules, orders and practice of the said court—

Deposits of
money.

And be it further enacted, That all monies which may be directed to be deposited in the court of chancery or court of probates; or which may arise from sales by order of either of the said courts, and which shall be ordered to be brought into court shall be paid into the banks of New York or Albany, subject to be drawn out by the order or decree of the said courts respectively, and not otherwise; and that no fee or commission shall be allowed to any officer of said court, on money which may be so paid, deposited or withdrawn—

Sales of
mortgaged
premises.

XII. *And be it further enacted,* That all sales of mortgaged premises to be made under any decree of the said court of chancery, shall be made and deeds executed for the same by one of the masters of the said

court, and such deeds shall be of the same validity and as beneficial to the purchaser as if the same had been executed by the mortgagee and mortgagor, and shall be judged an entire bar against them, and each of them, and their and each of their heirs both at law and in equity—and the monies arising from the sale of such mortgaged premises, shall be applied to pay off and discharge the debt due to the mortgagee or mortgagees, obtaining a decree for such sale with such costs as the court shall award; and the remainder if any shall be put at interest on such security as the said court shall deem sufficient and the same shall be paid to the mortgagor or mortgagors, or his, her or their legal representatives, on his, her, or their application to the court for the same. *Provided always* that no greater estate in the premises sold shall vest in the purchaser upon such sale, than would have vested in the mortgagee had the equity of redemption been foreclosed.

And be it further enacted That if any decree shall hereafter be obtained in the said court of chancery against any such mortgagor or mortgagors described in the preceding section of this act, for the non payment of interest, by reason whereof any bond or other instrument containing a penalty hath become forfeited, or for the non payment of any portion or instalment of any demand, by reason whereof such penalty hath become forfeited, it shall be lawful for the said court to apply the proceeds of the sale of such mortgaged premises as well towards the payment of such interest or instalment, as towards the payment of the whole or residue of such demand as hath not become due and payable; and the residue of the proceeds of such sale if any there be, shall be put at interest, and paid in the same manner as is above directed—*Provided always* that the said last mentioned provision, shall not extend to any demand or to any instalments or portions of demands not bearing interest, but that in all such cases after discharging the monies already due and payable, the residue of the proceeds of such sale shall be put at interest under the direction of the said court and upon such security as the said court shall approve and together with the interest arising therefrom, shall remain, under the direction of the said court as a security to the mortgagee or mortgagees for such demands or instalments; and after the said demands or instalments shall become due, and as the same shall become due, the said court shall cause such monies so put at interest to be applied in discharge thereof; and the overplus, if any there be shall be paid to such mortgagor or mortgagors, his, her or their legal representatives, upon, his, her or their application to the court for the same—

Provided also and it is hereby further enacted That if the mortgagor or mortgagors shall at any time before a sale made in pursuance of such decree cause an appearance to be entered in such court, and shall pay such costs to the mortgagee or mortgagees as the said court shall think reasonable, that then the said court shall cause the sale of the said mortgaged premises to be stayed and such proceedings may thereupon be had in the cause, as if an appearance had been entered within such time and in such manner as according to the rules of the said court the same ought to have been done in case the first process in the suit had been duly served—

And be it further enacted That it shall be lawful for the several examiners in the court of chancery and they are hereby empowered to administer oaths to witnesses, and also to take affidavits to be read in the said court—

And be it further enacted That after the first Monday of July next, no subpoena to hear judgment shall issue, but that all causes shall be brought on to hearing under such rules and orders as the chancellor may from time to time prescribe—

Where
entire su
secured
not due

Appear-
ance by
mortgage

Examiner
may ad-
minister
oaths

Subpoena
to hear
judgment

CHAP. 134.

AN ACT granting relief to purchasers of lands in the late Oneida Onondaga and Cayuga reservations.

PASSED the 3rd of April, 1801.

Certain
interest
remitted.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That all interest already accrued, or which may accrue before the first Tuesday in July next upon the mortgages for any lands which were either sold at public auction by the people of this State, or were purchased by persons having the right of pre-emption, situate in the late Oneida and Cayuga reservations, and also two years interest in arrear in the lands so circumstanced in the Onondaga reservation, shall be and hereby are remitted to the purchasers of the same lands respectively and their assigns, being actual settlers on the said land, at the time of the passing of this act, so that in all cases of stipulations made upon the sale or assignment of any of the said lands for or including the payment of any interest upon any of the said mortgages, the said remission shall inure to the benefit of the persons assuming the payment of the same, being settlers on the said lands as aforesaid: And the surveyor general of this State upon receiving satisfactory evidence from any person claiming the benefit of such remission, that he is entitled thereto, shall and he is hereby directed to enter such remission of interest upon the mortgage to the people of this State of the land on which such claimant resides.

Reduced
rate of
interest to
be charged

And be it further enacted, That an interest of three per centum only, for the period of five years, shall be demanded upon all mortgages of lands which were sold at public vendue as aforesaid in the said Cayuga reservation, subject nevertheless to the restrictions and limitations contained in the preceding clause.

Account
with Peter
Smith.

And be it further enacted, That the comptroller shall immediately after the passing of this act, credit Peter Smith towards the principal of his mortgage upon lands in the late Oneida reservation, with the amount of fifty four cents five mills per acre, for all the lands contained in the said mortgage, being the difference between the mean price as was calculated upon the lands south of the Genesee road in said reservation, and the mean price upon the whole tract as was originally intended by law. And shall on the first Tuesday of July next, debit the said Peter Smith with the amount of the arrearages of interest, which may then remain unpaid on said mortgage, which amount shall be added to the principal, and to be paid in same manner as the residue of the said mortgage: *Provided always,* that neither the said Peter Smith, nor any grantees under him shall be entitled to any of the benefits, contained in the provisions of the first section of this act.

Bonds and
mortgages
may be
given by
Peter
Smith.

And be it further enacted, That on the said Peter Smith, his heirs or assigns producing to the comptroller any bonds executed to the people of this State, and payable in ten years with the interest annually at the rate of six per cent per annum, accompanied by mortgages to secure the payment of the same respectively, duly acknowledged and registered, on lands mortgaged as aforesaid by the said Peter Smith in the Oneida reservation together with satisfactory proof, that the lands described in such mortgages are worth the sums expressed therein, and that the said bonds and mortgages were given in consequence of a fair and bona fide purchase of the lands described therein, made by the persons who exe-

cuted the same, of the said Peter Smith, his heirs, or assigns, that then the comptroller shall credit the said Peter Smith the amount of such bonds and mortgages, upon the mortgage given by him as aforesaid.

And be it further enacted, That whenever the principal and interest secured by any such mortgages shall be paid, the lands comprised therein respectively shall be and hereby are released and discharged from the mortgages given to the people of this State thereon. *Provided always,* that satisfactory proof shall be given to the comptroller on the production of any such bonds and mortgages as aforesaid by the said Peter Smith, his heirs, or assigns that the lands contained in any such mortgages are not greatly undervalued; *and provided also,* that the sum of twenty five dollars shall be paid upon the production of the said bonds and mortgages for every hundred acres contained therein, and so in proportion, and which sum shall be credited on the mortgage given by the said Peter Smith to the people of this State.

And be it further enacted, That the benefit of this act shall not be extended to the said Peter Smith his heirs, or assigns beyond the period of two years from the passing hereof.

And be it further enacted, That the comptroller shall stay all prosecutions already commenced, or which are by law directed to be commenced against the purchasers at auction of the Oneida Cayuga and Onondaga reservations, for eight months from the passing of this act.

CHAP. 135.

AN ACT relative to the court of exchequer.

PASSED the 3d of April, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the junior justice or in his absence any other of the puisne justices of the supreme court, shall during every term of the said court, or such part thereof as may be necessary at or near the place of holding the said supreme court, hold a court to be called the court of exchequer in the supreme court, which shall have power to hear and determine all causes, matters and things concerning forfeitures, whether for recognizances, or for other causes, fines, issues, amerciaments and debts due or to become due to the people of this State, according to law and the course of the exchequer; and that it shall be lawful for such court to cause due process of law to be issued for levying the same, and all sheriffs, coroners and other officers to account for all monies received for the same; and to audit and settle such accounts; and cause the same to be paid, and also upon good cause shewn to remit any fine upon any juror or other officer of any other court for default of attending the same, or any forfeiture of any recognizance, or any part of such fine or recognizance; and to discharge such recognizance according to equity and justice. *And further,* that it shall be lawful for such court, in any case of difficulty, to adjourn the same and deliver the record thereof into the supreme court, where the same shall be heard and determined, and thereupon sent back to the said court of exchequer where execution thereof shall be done according to law.

And be it further enacted, That the justices of the supreme court as often as may be necessary, shall by rule or order to be entered in the minutes of the said court appoint, and the chief justice under his hand

and the seal of the said court, commission an experienced and proper person to be clerk of the said court of exchequer, who shall hold his office during the pleasure of the said justices; and such clerk shall make and enter all minutes and records and issue all process as shall be directed by the said court, and shall receive and be accountable for all monies paid into the said court; and annually on the first day of January term shall make a just and true account upon oath of all monies paid into the said court, and of all expences by him paid for stationary and other necessities for his office, and produce the same to the said court, to be audited and allowed, & within twenty days thereafter shall deliver a true copy of such account so allowed to the treasurer of this State, and pay to him the amount thereof after deducting his salary and the sums so allowed for necessities upon pain of forfeiting his office, besides being answerable for the monies so received.

Bond of clerk.

And be it further enacted, That as often as a clerk of the said court of exchequer shall be appointed, he shall before he enter upon the discharge of any of the duties directed to be performed by him in and by this act, give a bond with two sureties to be approved by one of the justices of the supreme court, to the people of this State in the sum of five thousand dollars, conditioned for the faithful performance of the duties of his office and shall file such bond in the office of the clerk of the supreme court.

Seal; process.

And be it further enacted, That the present seal shall continue to be the seal of the said court and the description thereof deposited and recorded in the office of the secretary of this State shall there remain as a public record of the same, and that the process of the said court of exchequer shall be sealed with the said seal, and signed by the said clerk, and returnable, "Before one of our justices of our supreme court in our court of exchequer," on such day as the said court shall next be held, "at the city of Albany," or "New York," as the case may be.

No fees to be received

And be it further enacted, That neither of the justices who may hold such court, nor the said clerk shall take or receive any fee or reward for any services by them to be performed therein.

Clerks of courts of record to deliver account of estreats of fines and forfeitures of recognizances.

And be it further enacted, That the clerks of the several courts of record in this State shall annually on the first day of October term make and deliver into the said court of exchequer a just and true account and estreat of all fines, forfeitures, issues, and amerciaments imposed or adjudged, and of all recognizances forfeited before the first day of September preceding the first day of the said October term, in the respective courts of which they are clerks, together with the said recognizances; noting in every such account and estreat, where any such fines, forfeitures, issues or amerciaments have been paid, or the person committed for the same, to whom such payment or commitment was made, and what process has been issued, and to what officer; upon pain, that every clerk who shall neglect his duty therein shall forfeit his office, and become answerable for all such fines, forfeitures, issues and amerciaments and the amount of all such recognizances as such clerk shall neglect to give an account of and estreat and deliver as aforesaid.

Service of process by sheriff.

And be it further enacted, That every sheriff and other officer to whom any process out of the said court of exchequer shall be directed and delivered, shall upon demand shew the same, and without any fee or reward deliver a copy thereof to the debtor or person against whom the same shall issue, and upon the receipt or levying of the money therein mentioned acquit the debtor thereof and account for the same at his next account, and if any sheriff or other officer shall refuse so to do, and be thereof convicted, he shall render to the party grieved treble damages

and be further punished by fine at the discretion of the court in which he shall be convicted.

And be it further enacted, That all sheriffs, coroners, and other officers, who shall have received or have become liable for any such fines, forfeitures, issues or amerciements shall annually on the first day of April or October term render a just and true account thereof on oath to the said court of exchequer, and pay the balance if any found due thereon to the clerk of the said court, which account shall be audited and settled by the said court, and on payment thereof by any sheriff, coroner, or other officer, the said court shall grant a quietus or discharge for the same under the seal of the said court; and if any sheriff coroner or other officer shall not pay such balance within twenty days after the auditing of his account execution shall be issued against him for the same; and if any such sheriff, coroner or other officer shall refuse or neglect to render such account such officer so neglecting or refusing shall be liable to pay all such sums of money as shall or might have been received by him for any such fines, forfeitures, issues or amerciements, and all such fines, forfeitures, issues and amerciements as shall have been imposed or adjudged against such officer so neglecting or refusing in any court of record in this State; and execution shall thereupon be issued against such officer for the same; and if on auditing the account of any such sheriff, coroner or other officer a balance shall be found in his favor he shall be entitled to receive the same out of the treasury of the State on a certificate under the hand of the judge, and under the seal of the said court. *And further* where a fine imposed on a grand juror, petit juror, or any officer for neglecting or refusing to attend a court shall have been levied by the sheriff and by him paid to the clerk of the said court, and shall afterwards on the petition of the defendant be remitted by the said court in whole or in part, such defendant shall on a like certificate be entitled to receive the sum so remitted out of the treasury of the State.

Accounts
to be ren-
dered by
certain
officers.

And be it further enacted, That all executions in the said court of exchequer for levying a fine imposed on any grand juror petit juror, or other officer for refusing or neglecting to attend a court, shall be against the goods of the defendant; and where there shall be more than one such defendant in any county, then instead of an execution against each defendant, it shall be sufficient if the names of the several defendants and opposite thereto the debts to be made of their goods respectively shall be written on a schedule to be annexed to an execution commanding the sheriff or other officer that of the respective goods and chattels of the several defendants named in such schedule, he cause to be made the several debts therein specified opposite to the names of the said defendants, respectively; and the said execution shall contain a clause, commanding the sheriff or other officer that at the time of levying the fines he notify the defendants severally, that if they have sufficient matter to shew for remitting the fines levied from them respectively, that they appear in the said court of exchequer on the first day of the next ensuing term of the supreme court, or at the first circuit court to be held after such notice in the county where such defendants shall reside, to shew such matter. And the judges of the supreme court shall severally certify into the court of exchequer, the allegations and proofs of the defendants made before them in that behalf at the circuit courts held by them respectively. And that all other executions to be issued by the said court, shall be against the body, lands and goods of the defendants, and shall command the officer to whom the said executions shall be directed, to cause to be made of the goods and chattels of such

Executions

defendant in his county the sum of money therein specified. And if sufficient goods and chattels of such defendant cannot be found in his county then that he cause such sum of money to be made of the lands and tenements in his county whereof such defendant was seized on the day such sum of money became due, (specifying the same in such execution,) or at any time afterwards in whose hands soever the same may be; and also that he take the body of such defendant and him in prison safely keep until he shall satisfy such sum to the people of this State, but if sufficient goods and chattels of such defendant shall be found than that his land be not sold, nor his body taken in execution for the same, and when any such execution shall be issued against any sheriff coroner or other officer, while in office, or against any heir, executor, or administrator such execution shall not be against their bodies, but only against the lands, goods, and chattels of such sheriff, coroner or other officer, or of the ancestor, testator, or intestate of such heir, executor or administrator.

Audit of
accounts
for extra-
dition of
prisoners.

And be it further enacted, That in all cases where the executive of this State in pursuance of the Constitution of the United States, or any law of the United States hath or hereafter shall demand from the executive authority of any State in the Union any person as a fugitive from justice, it shall and may be lawful for the court of exchequer, to audit the account of the person who hath been or hereafter may be deputed or employed by the executive of this State to claim and demand such fugitive, and the said person so deputed and employed shall be entitled to receive out of the treasury of this State, the sum which the judge of the said court of exchequer shall under his hand and seal certify to be reasonably due to him for such service.

CHAP. 136.

AN ACT authorising John Marshall and Gilbert Brown to erect a mill dam and grist mills across and upon Mill creek, in the town of Rye and county of Westchester, and to enable certain persons interested in land contiguous thereto, to assent to the same.

PASSED the 3d of April, 1801.

Preamble.

WHEREAS a large number of the inhabitants of the said town of Rye have by their petition presented to the legislature, prayed a law authorising the erection of a mill-dam and mills across and upon the creek, commonly called Mill creek, in the town of Rye, in the county aforesaid: *And whereas* in and by the said petition, Sarah Horton, Mary Fayerweather and the children of the said Sarah Horton, the sole proprietors of the land adjoining on the east side of the said creek also state their assent to convey a certain parcel of the said land, together with the privileges thereunto belonging, unto John Marshall and Gilbert Brown, in order for the accommodation and completion of the design of the said mill-dam and mills; but by reason that Joshua Horton, Richard Horton and Joseph Horton, three of the children of the said Sarah Horton are respectively minors they are not competent in law to accomplish the object of their wishes: *And whereas* as well the persons interested in the said land on the east side of the said creek, as many of the inhabitants of the said town have associated in their application to the

legislature, to give the said John Marshall and Gilbert Brown full power and lawful right, to build a dam and mills, on the said creek at or near a certain place therein designated; therefore,

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful for John Marshall of the town of Mamaroneck, and Gilbert Brown of the town of Rye in the county of Westchester, and their respective heirs and assigns to erect and build a mill-dam across the creek at a place opposite to the lands of the persons interested as aforesaid, commonly called Mill creek in the town of Rye and county of Westchester; and also grist mills contiguous or adjoining thereto: To hold the same to them the said John Marshall and Gilbert Brown and to their respective heirs and assigns forever, for their own proper use and benefit: *Provided nevertheless* and upon condition that the said John Marshall and Gilbert Brown shall obtain and procure, from Mary Fayerweather, Jonathan Horton and Sarah his wife and the children of the said Jonathan Horton and Sarah his wife, a good and sufficient title to the lands on the east side of the said creek, so far as the same may be necessary for the convenience of the said dam and mills; and *provided further* that the said John Marshall and Gilbert Brown, and their several and respective heirs and assigns shall forever and at all times, after erecting the said mill-dam and mills purchase make, work and keep in repair a good and sufficient cart road, through the lands of the persons interested therein as aforesaid & on the southern part thereof, four rods wide, for the use of the public, and under the direction of the commissioners of highways of the said town of Rye, for the time being, from the old road to a new dock and landing, to be made instead of the present road to the landing and kept in repair, for the use of the publick, by the said John Marshall and Gilbert Brown, and their several and respective heirs and assigns; which said new dock and landing shall be on the east side of the said creek, and not exceeding ten rods below the mill-dam, to be erected by virtue of this act, and not to the southward of the lands of the said persons interested therein as aforesaid.

Persons named may erect a dam across Mill creek.

And whereas it is further represented to the legislature, by the before mentioned petition and the certificates thereto subjoined, that Joshua Horton, Richard Horton and Joseph Horton, three of the children of the said Jonathan Horton and Sarah his wife are interested in the lands lying on the east side of the Mill creek as aforesaid, and desirous of joining in the fulfilment of the prayer of the said petition; but by reason of their minority are incompetent to the execution of any legal act, for the purposes; therefore,

Be it further enacted, That it shall be lawful for any two judges of the court of common pleas for the said county of Westchester, to constitute and appoint, by writing under their hands and seals, any two discreet persons, as trustees for the said Joshua Horton, Richard Horton and Joseph Horton, with full powers in behalf of the said Joshua Horton, Richard Horton and Joseph Horton, to join with the aforesaid Mary Fayerweather, Jonathan Horton and Sarah his wife and the other children of the said Jonathan and Sarah, in selling and conveying so much of the lands aforesaid, as will be sufficient for the said road, dock and landing and for the accommodation of the said mill-dam and mills; and that such parts of the monies as may arise from the sale of the said land, as may be the proportion of the said Joshua Horton, Richard Horton and Joseph Horton, shall be disposed of, under the direction of two of the judges of the said court of common pleas, in such manner as will be most beneficial, for the said minors.

Trustees to convey certain lands.

CHAP. 137.

AN ACT relative to the city of Schenectady.

.PASSED the 4th of April, 1801.

Schenectady, city of, boundaries.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That all that district of country contained within the following limits, to wit, beginning on the north bank of the Mohawk river, about four miles below the late village of Schenectady opposite the mouth of a small creek called Laughters killities where the east bounds of Schenectady patent comes to the said river; thence along the northerly, northeasterly, northwesterly, westerly, southerly and south easterly bounds thereof to the north bounds of the manor of Rensselaerwyck; thence along the same easterly, to the said easterly bounds of Schenectady; thence along the same northerly to the said Mohawk river, and then with a straight line to the place of beginning; shall continue to be a city by the name of Schenectady, and that all the freemen of this State from time to time being inhabitants thereof shall be a body corporate by the name of the Mayor, Aldermen and Commonalty of the City of Schenectady, and by that name they and their successors shall be known in law, and be capable of suing and being sued, and of defending in all courts of law and equity, and in all actions and matters whatsoever, and may have a common seal and alter the same at their pleasure, and shall be absolutely and completely vested with all the estate and interest of and in the common lands, tenements and hereditaments of the said city not heretofore disposed of, and of all manner of debts which now are or hereafter may be due and unpaid, and are made payable to any former trustees of the late township of Schenectady in the capacity of trustees thereof; *provided however,* that nothing herein contained shall be construed to affect any suits which now are depending, or which may hereafter become necessary for any purchaser to commence in the name of any former trustees of the late township of Schenectady, to try the title to or recover the possession of any land situated within the patent aforesaid, but the same may be prosecuted in the same manner as if this act had not been passed.

Wards and ward officers.

And be it further enacted, That the said city shall be divided into four wards, and the inhabitants of each ward shall have power to elect two aldermen and two assistants, together with all such officers, as are by this act provided to be chosen, except the treasurer and clerk of the said city, which said election of aldermen and assistants and other officers shall be annually held in each of the said wards on the first Tuesday in April.

City officers.

And be it further enacted, That there shall be in and for the said city, one mayor, who shall have the same power to take the acknowledgment and proof of deeds and other writings relating to lands situate within the said city, as a judge of the court of common pleas, in and for the county of Albany; eight aldermen, eight assistants, one clerk, one treasurer, one supervisor, and as many assessors, collectors, constables, commissioners of highways, overseers of the poor, pound masters and fence viewers as the common council, herein after constituted and appointed shall from time to time direct to be chosen, which supervisor, assessors, collectors, constables and other officers so directed to be chosen shall be chosen in the manner, and at the time and place herein directed for the annual election of officers within said city.

IV. And be it further enacted, That it shall be the duty of the person administering the government of this State by and with the advice and consent of the council of appointment, at such time as said council shall be assembled, to nominate and appoint out of the citizens and inhabitants of said city of Schenectady, one fit and discreet person to be mayor of said city, which said mayor shall continue in his said office for the term of one year from such appointment, and until some other person be appointed and sworn in his stead. Appoint-
ment of
mayor.

And be it further enacted, That on the first Tuesday of April in every year the inhabitants of said city shall assemble in their respective wards, at such time of the day and at such public places as the common council shall for that purpose, at their meeting next previous to such election, have appointed, and then and there by plurality of votes, choose out of the inhabitants of said city, residing in their respective wards, for the ensuing year, two aldermen, two assistants, and such a number of assessors, collectors, constables, pound masters, commissioners of highways, fence viewers, and such other proper and necessary officers, as the common council of the said city shall from time to time deem necessary and direct to be chosen. Annual
election

And be it further enacted, That all the inhabitants of said city, qualified by the existing laws of this State to vote at town meetings shall be entitled to vote for aldermen and assistants and all other officers at such time and place as is herein before directed. Electors.

And be it further enacted, That every person to be chosen alderman or assistant of the said city by virtue of this act, shall be a freeholder within this State, or have hired a tenement of the yearly value of thirty dollars and actually paid taxes in said city, and resided within said city at least one year before such election, and resident within their respective wards; and the votes given for said alderman and assistants shall be by ballot, and at least eight days before the day of election annually to be holden by virtue of this act, the common council of said city shall appoint in each ward three persons who shall preside as inspectors of said election, and such persons so appointed shall preside and canvass the ballots of such election and declare the several officers who may have been chosen, and shall have power to decide on the qualification of electors, and shall provide and keep poll books wherein shall be entered the names of the persons who voted at such election. Aldermen
and assist-
ants.

VIII. And be it further enacted, That each inspector before he enters upon the execution of the duties of his office shall take and subscribe an oath, faithfully to perform and execute the duty of an inspector according to the best of his knowledge and abilities, which oath shall be administered by any justice of the peace residing in the said city. Oath of
inspectors.

And be it further enacted, That the mayor, aldermen and assistants of the said city shall be called the common council of the city of Schenectady, who, or the major part of whom, whereof the mayor always to be one, shall have power and authority to pass such bye laws and establish such wholesome regulations as by them from time to time shall be thought expedient, the better to manage and secure their common property, and also power and authority to take bonds and sureties to be given by constables or any other officers of said city for the faithful discharge of the duties of their office, and also relative to the overseeing of the poor within said city; *provided* that such bye laws be not contrary to or inconsistent with the constitution or laws of this State. Common
council.

And be it further enacted, That on the first Tuesday in April in every year the inhabitants of the respective wards in said city qualified as herein before mentioned when assembled for the purpose of electing the Supervis-
ors.

officers herein before mentioned shall by ballot choose one supervisor for said city for the year then ensuing, which said ballots shall by the inspectors of said election in the respective wards be sealed up and by them respectively delivered to the clerk of said city, who shall at the then next meeting of the common council of said city deliver the said ballots to the mayor, and the said common council shall then and there proceed to canvass and examine the said ballots, and the person who upon such canvass is found to have the greatest number of ballots shall by said common council be then and there declared to be supervisor, and such supervisor shall be vested with the same powers and duties as the respective supervisors of the city of Albany are by law vested with; *provided* that no such canvass or determination by said council shall be valid, unless at such meeting there be present at least two thirds of all the members composing the common council of said city.

Treasurer
and clerk.

And be it further enacted, That on the first Tuesday of May in every year the common council of said city shall nominate and appoint one fit person, being a freeholder and inhabitant of said city, to be treasurer of said city, and one other fit person to be clerk for the year then next ensuing; and the said treasurer before he shall enter on the execution of the duties of his office shall give bond with two sureties to be approved of by said common council in the sum of five thousand dollars, conditioned for the due execution of the duties of his said office, and a faithful discharge of the trust reposed in him; and the said clerk before he enter on the exercise of the duties of his said office shall make oath faithfully to perform and truly to discharge the duties of his said office to the best of his knowledge and ability without fraud, favor or partiality.

Duty of
clerk.

XII. *And be it further enacted*, That it shall be the duty of the clerk to provide and keep a book or books wherein shall be entered all the proceedings of the said common council from time to time, which books and proceedings shall be open at all proper times for the inspection of any of the inhabitants of the said city.

Common
lands.

XIII. *And be it further enacted*, That the said common council shall meet on the first Tuesday in May in every year, and oftener if necessary at which meetings every transaction, relating to the common lands and property shall be determined by a plurality of votes of the members present, and no sale, lease, gift or disposition whatever of such common property, shall be valid unless two thirds of the whole number of aldermen and assistants of said city shall give their assent to the same; and to constitute a legal meeting for any other purpose there shall be present at least two thirds of all the members composing the common council of said city; and in cases of emergency it shall be lawful for the mayor of the said city to call a meeting at other times than herein before provided.

Oath of
office.

And be it further enacted, That the mayor and each of the common council of the said city shall severally before they enter on the discharge of the duties of their respective offices take and subscribe the following oath or affirmation. "I, A B, do solemnly swear (or affirm as the case may be) that I will well, faithfully and truly execute the office of to which I am elected (or appointed) to the best of my ability without fraud, favor or partiality."

Vacancy in
office of
mayor.

XV. *And be it further enacted*, That in case of the absence death, sickness or removal from office of the mayor, it shall be lawful for one of the aldermen of said city, to be nominated and appointed by the aldermen and assistants of said city, in a meeting of said aldermen and assistants for that purpose to be convened; which meeting shall be

summoned by writing, under hand and seal of any two aldermen thereof, to execute all the duties to the office of said mayor appertaining during the absence, sickness or removal from office of said mayor, or until a successor be duly appointed and sworn, except the taking of proofs and acknowledgments of conveyances, as herein before mentioned.

And be it further enacted, That if any of the inhabitants of said city shall hereafter be chosen to the office of alderman, assistant, supervisor, assessor, collector, constable, commissioner of highways, pound master or fence-viewer of said city, and having notice of his said election shall refuse or neglect to take upon him the execution of his office, it shall then be lawful for the common council of said city to impose upon every such person such reasonable fine as the said common council shall think fit, unless such person shall render to such common council a reasonable and satisfactory excuse, before such order shall be made in the premises; *provided always*, that no such fine for such refusal or neglect shall exceed the sum of twelve dollars; all which said fines shall be levied by distress and sale of the goods and chattels of such delinquent, by warrant under the seal of the said city, directed to one of the constables thereof and signed by the mayor, rendering the surplus (if any there be) to the owner thereof, the necessary and legal charges of making and selling such distress being first deducted; which fines when collected shall be received by the common council for the benefit of said city.

Refusal to
take office.

And be it further enacted, That if any of the aldermen assistants, supervisor, collector or any other of the officers in said city to be elected and sworn in their respective offices as aforesaid shall die or remove out of said city within the time they shall be respectively elected for, or before other fit persons be respectively elected and sworn in their places, it shall be lawful for the inhabitants of the ward in which such vacancy shall happen to assemble at such time and place as shall be appointed by the mayor of said city, and then and there by plurality of votes to elect one of the inhabitants of said city to serve as alderman, assistant, supervisor, assessor, collector or other officer, in the place of such officer so dying or removing; and in case of the death or removal of the treasurer or clerk of said city, it shall be lawful for the common council to appoint another in their respective places, at any time after such death or removal and every such person so newly chosen or appointed and sworn shall serve in their respective offices until other fit persons be chosen or appointed and sworn in their respective places; *provided always* that such election for aldermen, assistants or other officers upon any vacancy shall be conducted agreeable to the mode herein before prescribed.

Vacancies.

And be it further enacted, That the mayor of the said city shall have the exclusive power within the first and second wards thereof to grant licences annually under the public seal of the said city to all such persons as he shall think fit to keep a tavern, inn, ordinary or victualling-house, and to sell wine, brandy, rum, cyder, beer, ale or any other sort of excisable or strong liquors within the said first and second wards respectively; and it shall be the duty of the mayor, aldermen and assistants of the said city annually to appoint a commissioner of excise in each of the third and fourth wards of the said city, whose duty it shall be to grant all licences for keeping inns and taverns and retailing spiritous liquors in their respective wards subject nevertheless to the approbation of the said mayor, aldermen and assistants, to be signified by affixing the common seal of the said city to every such licence at the time of granting the same. And it shall be lawful for the said mayor

Innkeeper's
license,
etc.

and commissioners of excise to demand and receive for every licence to be by them respectively granted as aforesaid from the persons to whom the same shall be granted, the like sums as a duty of excise, and the same fees as are now receivable by the commissioners of excise within the several towns of this State; and the monies arising from the said duty of excise shall be paid to the treasurer of the said city to be appropriated by the mayor and common council towards the support of the poor thereof.

Division of
wards.

And be it further enacted, That the division of said city into wards shall be in the following manner, to wit, all that tract of country contained within the following bounds, beginning at the north west corner of a lot of ground where the present dwelling house of Nicholas Van Patten stands, on the easterly bank of a branch of the Mohawk river, thence along the northerly bounds of said lot to the street, thence along said street southerly until it comes opposite to the center of the Nistigauna street, thence along through the middle of said street and the road that leads from said village to Nistigauna aforesaid to the easterly bounds of the former town of Schenectady, thence along said bounds as they run to the Mohawk river, thence along said river up the stream thereof as it winds and turns until it comes opposite to where the east bounds of said Schenectady patent comes to said river, thence with a straight line to the middle of said river, thence up the stream through the middle as it turns and winds until it comes about five chains above the upper ferry, and thence with a straight line to the place of beginning shall be the first ward of said city; and all that tract of country contained within the following limits, beginning at the north west corner of the lot where the present dwelling house of Nicholas Van Patten stands, being also the place of beginning of the first ward, on the easterly bank of a branch of the Mohawk river, and runs thence along the same up stream to the mouth of a creek called the Church Mill creek, thence up the said branch of the Mohawk river eight chains, thence due east until it intersects a line running from the mouth of said Mill creek south eight degrees east, then south eight degrees east to the southerly bounds of the patent of Schenectady, thence along the same south easterly until it intersects the north bounds of the manor of Rensselaerwyck, thence along the same easterly to the easterly bounds of the former town of Schenectady, thence along the same as it runs to the road that leads from Schenectady to Nistigauna being the south easterly corner of the first ward, thence along the same as it runs to the place of beginning, shall be the second ward of said city; and all that tract of country contained within the following limits, beginning at the north west corner of the lot wherein the present dwelling house of Nicholas Van Patten stands, being the place of beginning of the first and second wards, and runs from thence along said second ward southerly to the southerly bounds of the patent of Schenectady, thence along the same south westerly, north westerly and northerly to the Mohawk river, thence to the middle of the same; thence down the same as it winds and turns to the north west corner of the first ward about five chains above the upper ferry, thence along the said first ward southerly to the place of beginning shall be the third ward of said city; and all that tract of country contained within the the following limits, beginning in the middle of said Mohawk river where the easterly bounds of said Schenectady patent comes to the river opposite the mouth of a certain small creek called Laughters killitie, and runs thence along the said east bounds thereof to the north east corner of the said Schenectady patent, thence along the northerly, north easterly, north westerly and westerly bounds thereof to

the said Mohawk river, and thence along the middle thereof as it winds and turns to the place of beginning, shall be the fourth ward of said city.

And be it further enacted, That all monies which shall from time to time come into the treasury of the said city arising from the sale of any lands, or for rent, interest or otherwise shall be annually divided and distributed in the manner following, that is to say, the one half of the whole sum shall be appropriated to public uses in the first and second wards of said city by the aldermen and assistants of the said two wards or the major part of them; and the other half thereof shall be annually divided and distributed for public uses in the third and fourth wards of said city in an equal proportion, which said monies shall be so disposed of, by the aldermen and assistants of the said third and fourth wards, or the major part of them.

Disposition of moneys arising from sale of common lands.

And be it further enacted, That the aldermen and assistants of the said respective wards shall annually at least fourteen days previous to the annual election for corporation officers within the said city render a just and true account to the common council of the said city, of all monies by them received in manner and for the purposes aforesaid.

Accounts to be rendered.

XXI. *And be it further enacted,* That it shall be lawful for the mayor of the said city, and the aldermen and assistants of the first and second wards of the said city, or the major part of them, whereof the mayor always to be one to make bye laws relative to the public markets within those wards so that such bye laws shall not extend to the regulating or ascertaining the price of any commodity or article of provision which may be brought for sale within the said limits; and relative to the streets and highways, nuisances, the cleaning of chimnies and preventing of fire within the said limits; and relative to a night-watch, the burial of the dead, the public lights or lamps, and restraining geese and swine going at large within the limits aforesaid, and relative to any thing whatsoever which may concern the good government and police of the said city, within the limits aforesaid; *provided* that such bye laws and regulations be not contrary to or inconsistent with the constitution and laws of this State; and the said mayor, aldermen and assistants of the said first and second wards or the major part of them, whereof the mayor always to be one, as often as they shall make, ordain and publish such bye laws for the purpose aforesaid may make and provide such fines and penalties against every person who shall offend against such laws or any of them, as by the said common council or the major part of them shall be thought requisite, the same to be prosecuted and recovered in any justices court within the jurisdiction of said city, which shall have cognizance of the same by action of debt or otherwise, to the public use of the said mayor aldermen and assistants of the city of Schenectady: *Provided* that no such bye law shall continue in force longer than for the term of one year.

City ordinances and by-laws.

And be it further enacted, That it shall be lawful for the mayor, aldermen and assistants of the first and second wards of the said city to nominate and appoint out of the inhabitants of said city residing and dwelling on the south side of the Mohawk river, and not more than three quarters of a mile from the Dutch church, a sufficient number of able, discreet and sober men not exceeding forty in number, being freeholders or freemen of said city to have the care, management, working and using the fire engines, and the tools and instruments now or hereafter to be provided for extinguishing fires within the said city, which persons so to be nominated and appointed shall be called the firemen of the city of Schenectady, who are hereby required to be ready at all times

Firemen.

as well by night as by day, to manage, work and use the said fire engines and other tools and instruments aforesaid.

**Exemption
of firemen.**

And be it further enacted, That each of the persons so to be nominated and appointed a fireman shall during his continuance as one of the firemen be exempted from serving in the office of constable, and overseer of the highways, and from serving as juror, and from serving in the militia except in cases of invasion or other imminent danger, and for this purpose the name of each fireman to be appointed shall be entered with the clerk of the said city, and his certificate shall be sufficient evidence in all courts and elsewhere of such exemption; *and further* the said mayor aldermen and assistants or the major part of them when convened shall have power from time to time to remove any fireman so to be appointed, and others to appoint in their stead, and to make and ordain such rules and regulations for the government of the persons so to be appointed firemen, in the working and frequent using and trying the said fire engines tools and instruments, and to impose such reasonable fines and penalties upon such firemen, or any of them, for default in performing the duties thereby to be required from them, as they from time to time may think proper.

**Duty of
officers in
case of fire.**

And be it further enacted, That upon the breaking out of any fire within the said city, the marshal and constables then being in the said city, upon discovery or notice thereof shall immediately repair to the place where such fire shall happen with their staves and other badges of authority, and be aiding and assisting as well in extinguishing the said fires, as in preventing any goods from being stolen and also in removing and securing the same, and in the execution of the duties required of them by this act shall in all respects be obedient to the mayor, aldermen and assistants of said city, or such of them as shall be present at any such fires.

Fire buckets.

And be it further enacted, That it shall be lawful for the said mayor, aldermen and assistants or the major part of them in common council convened to direct and require the inhabitants or owners of dwelling houses and other buildings in the said city within the limits aforesaid, to provide themselves with such and so many fire buckets to be ready in such houses and buildings for the purpose of extinguishing fires and to impose such reasonable fines and penalties for disobedience thereof, as they may think proper.

**Tax for
watchmen.**

And be it further enacted, That it shall be lawful for the mayor, aldermen and assistants aforesaid, annually to order the raising a sum not exceeding four hundred dollars by a tax on the estates real and personal of all the freeholders and inhabitants living or dwelling in that part of said city which lies to the southward of the Mohawk river, and not more than three quarters of a mile from the Dutch church to be applied to the payment of so many watchmen as the said mayor, aldermen and assistants or the major part of them may think necessary for guarding the said city, which said sum shall be rated and assessed by the assessors of the first and second wards of said city, and levied and collected in the same manner as now are or hereafter may be by law directed for levying and collecting the tax for the maintenance of the poor and other contingent charges within the said city, and the said monies shall be paid into the hands of the treasurer of the said city to be applied and disposed of from time to time in such manner, for the purposes herein before mentioned, as the said mayor, aldermen and assistants or the major part of them shall direct and appoint.

**Restraining
horses
and cattle.**

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city in common council convened from

time to time to make such bye laws as they may conceive necessary for restraining any horses, hogs, cows, or any other cattle from running at large on the flats commonly called the Bowland, and the islands distinguished by the names of Van Slycks, Wemple's and Fonda's islands, lying within the bounds of the said city.

And be it further enacted, That it shall be lawful for the freeholders and inhabitants of the third and fourth wards of the said city at their annual meeting to make such regulations respecting those wards as the freeholders and inhabitants of the several towns in this State are allowed by law to make: *Provided* such regulations be not contrary to or inconsistent with the powers vested in the corporation of said city.

Regulations in third and fourth wards.

And be it further enacted, That all the unimproved wood lands within the limits and bounds of the patent of Schenectady not heretofore lawfully granted and conveyed, shall be and remain in common for timber and fuel for the use of the freeholders and inhabitants of the said city, and it shall not be lawful for the said mayor aldermen and commonalty or their successors to demise, sell or convey any part of the last mentioned wood lands to any person whatsoever; and every demise, sale and conveyance thereof by them shall be void.

Unimproved wood lands.

And be it further enacted, That this act shall be a public act, and be construed in all courts and places benignly and favorably for every beneficial purpose therein intended.

How act construed.

CHAP. 138.

AN ACT for the repacking and inspection of beef and pork.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That there shall be an inspector general and ten repackers and inspectors of beef and pork, for the city and county of New York; one or more repackers and inspectors for the city of Albany; one or more for the city of Hudson, and as many in any other parts of this State, as shall from time to time be necessary; and it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, to make all the requisite appointments; and the persons already appointed to any of the trusts aforesaid, shall continue therein, during the pleasure of the said council.

Inspectors of beef and pork.

And be it further enacted, That every inspector general hereafter to be appointed for the city and county of New York, shall before he enters on the execution of his office, take and subscribe the following oath or affirmation, before the mayor, recorder or one of the aldermen of the said city: "I do solemnly swear or affirm, that I will truly, faithfully and impartially, according to the best of my ability, perform the duty of inspector general of beef and pork, according to the laws in force in relation thereto, without any wilful omission, neglect or delay whatever."

Oath of office.

And be it further enacted, That it shall be the duty of the said inspector general to superintend the repackers of beef and pork, within the said city and county of New York; and he is hereby authorised to remove any of them who shall act inconsistent with the trust reposed in them, from negligence, incapacity, mal practice, or any other cause, and to supply all vacancies which may happen by such removal, or by death

Duty of inspector-general.

or resignation, by temporary appointments, which shall continue in force, until the pleasure of the council of appointment can be known; and it shall be the duty of the said inspector general to report all such cases to the person administering the government of this State, as soon as may be; and the said inspector general is hereby further authorised by writing under his hand and seal, to appoint a deputy to superintend the repackers and inspectors, in case of sickness or necessary absence, and also to appoint in the same manner, one or more persons for the special purpose of examining and tapping beef and pork, as is herein after directed, and to displace the same.

Examina-
tion of
beef and
pork in
summer
months.

And be it further enacted, That it shall be the duty of the said inspector general, and he is hereby required, once in each of the months of June, July, August and September, and as often as he shall think proper, to examine all beef and pork that may be stored in the said city; and the owner or owners or agents having the possession, care or direction of any beef and pork stored in the said city, are hereby required to give notice to the said inspector general, from time to time, during the said months where the same is stored, and to permit the said inspector general to enter into any such store for that purpose; and such inspector general is authorised, and required to remove, or cause to be removed, to a proper place without the bounds of the said city, all such beef and pork as shall appear to him to be in danger of spoiling or becoming injurious to the health of the inhabitants of the said city; and the said inspector general shall moreover, on information given to him of any beef or pork stored in the said city, being in a putrid state, or likely to become so, go to the place or store where the same is said to be, and shall examine the same immediately, and shall cause the same to be removed, if in his opinion the removal thereof is necessary as aforesaid: And if any person shall neglect to inform the said inspector general, of the place where any beef or pork belonging to, or under his direction, is stored as above mentioned, or shall oppose or obstruct him in the performance of the duties required of him by this act, such person shall forfeit the sum of fifty dollars, for every such offence; and it shall be the special duty of the said inspector general, under his oath of office, to inform against, and prosecute any repacker, or other person, whom he can prove to have been intentionally guilty of any offence whatsoever in violation of the regulations of this act; and the district attorney of the district shall proceed, on any information made to him by the said inspector general, for the punishment of the offender.

When may
order re-
moval of
provisions.

And be it further enacted, That the said inspector general may, and he is hereby required to cause to be removed all provisions of any kind out of any cellar or other place where the same may be stored during the warm season, where from the heat of the weather and the damp, or other improper situation of the store or cellar where the same is kept, the said provisions may in his judgment be in danger of spoiling; and all provisions received and stored in the months of June, July, August and September, shall be stored in such manner as that the said inspector general may with convenience examine the same, under the penalty of ten dollars for every such neglect; and all provisions removed by virtue of this act, shall be removed at the expence of the owner or person having charge of the same; and all damaged provisions shall be by him removed in the warm season aforesaid, and thrown into the East or North river.

Annual
report.

And be it further enacted, That it shall be the duty of the inspector-general to make an annual report to the governor, to be laid before the

legislature, in which report he shall point out whether any, and if an what amendments are proper to be made in the laws relative to the repacking of beef and pork, and likewise what quantity of beef and pork has been repacked in the city of New York in the year preceding such report.

And be it further enacted, That the said inspector-general shall have and receive from the owner or his agent, for every whole barrel of beef or pork that shall be inspected or repacked by the inspectors or repackers of the said city and county of New York two cents; and for every half barrel so repacked one cent; and for every barrel or half barrel, every time he may examine the same in the months of June, July, August and September, two cents; and if occasion shall require the unheading any of the said barrels, the said inspector-general shall receive for every barrel and half barrel, so unheaded and headed up again, six cents.

Fees of
inspector-
general.

And be it further enacted, That every of the repackers to be appointed by virtue of this act, shall, before he enters upon the execution of his office, take the following oath or affirmation before any justice of the peace, viz. "I do solemnly swear or affirm that I will faithfully, truly and impartially, according to the best of my judgment, skill and understanding, execute the office and duty of an inspector and repacker of beef and pork, according to the true intent and meaning of the laws of this State relative to the same, and that I will not, directly or indirectly, brand or suffer to be branded, any casks of beef or pork, but what shall be sound and good."

Oath of
office of
repackers.

And be it further enacted, That the said repackers shall provide themselves with good and sufficient stores capable of receiving and storing such beef and pork as may be brought to them for inspection, but nothing shall be allowed for storage of any beef or pork inspected by them, if it shall be removed and taken away within three days after notice given to the owner or agent of its being repacked: And the said repackers and inspectors within the city and county of New York, are hereby required to follow such instructions and directions, as they or any of them may receive from time to time from the said inspector-general, in relation to the duties required of them by this act.

Store-
houses; to
follow in-
structions.

And be it further enacted, That no beef or pork shall be repacked in the said city of New York, southward of a line beginning at the East river running up Catharine street to Chatham street, down Chatham street to the public buildings, in front of said buildings to Broadway, down Broadway to Barclay street, and down Barclay street to the North river, and no provisions of any kind shall be inspected in the said city in the months of June, July, August and September, in any year to the southward of a line to be drawn from Rutgers's slip, on the East river, to Harrison street on the North river, and only on the margin of the said rivers, within the periods aforesaid.

Where
beef and
pork may
be re-
packed.

And be it further enacted, That all barrels and half barrels in which any beef or pork shall be repacked, shall be made with good seasoned white oak, rock oak, or white ash staves and heading, clear of sap, and such pork barrels shall be of a capacity to contain, not less than twenty nine, nor more than thirty one gallons, and half barrels not less than fifteen nor more than sixteen gallons, and such beef barrels shall be of a capacity to contain not less than twenty eight nor more than thirty gallons, and half barrels not less than fourteen nor more than fifteen gallons; each beef and pork barrel shall have twelve good hoops, the quarter hoops well secured with wooden pegs, and the chime hoops with nails, and the head flagged off; that the said barrels and half barrels

Barrels in
which beef
and pork
may be re-
packed.

shall in the opinion of the said inspector-general, be every way strong and tight enough to prevent the pickle from leaking out, and in all cases the heading and staves, shall be of the same kind of stuff, and all the said barrels shall be as nearly straight as may be, that a barrel of beef shall have two hundred pounds of beef packed therein, and a barrel of pork shall have two hundred pounds of pork packed therein, and a half barrel of either shall have one half the said quantities respectively : *Provided however* that all beef and pork which shall be repacked in and exported from the counties of Suffolk, Queens and Kings may be packed in barrels made of good seasoned red oak or black oak staves and heading free from sap, of the growth of the said counties respectively, and made otherwise as above directed ; and the same may be exported from New York as well as from the said counties, without again being repacked, but the same may be repacked in the city of New York, if the owner shall request it.

Three
qualities
of pork.

And be it further enacted, That the said repackers shall examine and sort all pork to be by them examined, and such only as is well fattened shall be repacked by them ; that the best quality of pork shall be denominated mess pork, and shall consist of none but the sides of good fat hogs, and the barrels containing it shall be branded on one of the heads, " Mess Pork," and the second quality shall be denominated, " Prime Pork," of which there shall not be in a barrel more than three shoulders without the legs, which shall be cut up to the knees, and shall not contain more than twenty four pounds of head, that shall have the ears and snouts cut off, and one of the heads of every such barrel of pork shall be branded " Prime Pork " ; and the third quality of pork shall be denominated " Cargo Pork," of which there shall not be in a barrel more than four shoulders without the legs, and not more than two heads, which heads shall not exceed thirty pounds weight, and shall be otherwise merchantable pork, and shall be branded on the head " Cargo Pork " ; that every half barrel of mess, prime or cargo pork shall contain one half the quantity of the different kinds or qualities of pork of a whole barrel. Pork so to be repacked, shall be cut into pieces, as nearly square as may be, and may be cut from the back bone to the belly ; *provided* that no pieces of pork shall in size exceed twelve nor be under four pounds weight, otherwise the barrels containing the same shall not be branded as merchantable; in every whole barrel of pork there shall not be less than half a bushel of good St. Ubes or hard salt, and in every barrel, one peck.

Four quali-
ties of
beef.

XIII. *And be it further enacted*, That no beef which shall be killed after the passing of this act, shall be repacked in barrels for exportation, unless it be of fat cattle not under three years old ; that all such beef shall be cut into pieces, as nearly square as may be, and which in size shall not exceed eight, nor be under five pounds weight, and no shank or bony piece shall be put in as merchantable, from which the meat, or any part of it, shall have been cut for smoaking or otherwise ; that no beef shall be repacked by the said inspectors, and marked by them as herein after mentioned, unless it shall have been well rubbed, and put down with a sufficient quantity of dry salt and pickle, or dry salt until it shall be struck through with salt to the satisfaction of the inspectors, otherwise it shall be the duty of the repacker, to cause it to be well rubbed himself with dry salt, until the blood and water are sufficiently extracted, and the salt fully struck in ; the expence of which shall be paid to the repacker, before the beef so salted by him shall be taken away ; and no pickle shall be put to any beef before it is repacked by one of the repackers authorised as above mentioned, otherwise the same

shall not be branded as merchantable. All beef that shall have been killed under the age before mentioned, or that shall be poor, or not sufficiently fattened, or which shall have been managed differently from the directions of this act, or that is any way unmerchantable may be put up into barrels, but shall not be branded with either weight, quality or inspectors name, nor the name of any city or county within this State; that all beef which the repacker shall, on examination, find to have been killed at a proper age, fat, well salted, and otherwise good and merchantable, shall be sorted and repacked by him and shall be divided into three kinds, to be denominated mess, prime and cargo beef; mess beef shall consist of the choice pieces of such beef as is large and fat, without hocks, shanks or necks, which choice pieces shall be put into barrels by themselves, and one of the heads of each barrel containing this description, shall be branded the words "Mess Beef;" that the prime beef shall consist of the next best pieces, made of good fat cattle, in which there shall not be more than half a neck, nor more than two shanks with the hocks cut off, in a barrel and on one of the heads of all barrels containing beef of this description, shall be branded the words "Prime Beef;" that cargo beef shall be of fat cattle, with a proportion of good pieces, and not more than half a neck and three shanks with the hocks cut off, in a barrel, and to be otherwise merchantable, and on one of the heads of the barrel containing beef of this quality shall be marked the words "Cargo Beef;" that the repackers in repacking the said beef shall put two and a half pecks of coarse salt (St. Ubes salt if to be had) into each barrel of the said beef, together with three ounces of salt petre, and one half of the said quantities into each half barrel: *And further*, that it shall be lawful to put up and to export from this State, a fourth quality of beef to be denominated and marked, "Heads, Hearts and Hocks," to consist of legs, necks, hearts and the meat of heads, and which fourth quality shall be subject to the like management and inspection as the other qualities of beef are hereby made subject to.

XIV. *And be it further enacted*, That if the barrels and half barrels shall be larger than the dimensions aforesaid, the same shall be condemned by the repacker, or be filled up by him with good pieces of beef or pork at the expence of the owner. Every barrel and half barrel of merchantable beef and pork, inspected, admitted and repacked as aforesaid, shall be distinctly branded in large letters on one of the heads thereof "Inspected," with the weight in figures, the initial of the christian name, and the surname at length, of the inspector, and the name of the city, town or county wherein it was repacked, and the quality as above mentioned. Every inspector as aforesaid shall carefully secure his branding-irons so as to put it out of the power of his servants or others to obtain and make use of the same, contrary to the true intent and meaning of this act; and each inspector shall be provided with a screw, suitable for the purpose, to press down the meat into the barrels; and no weight of any kind shall be used to pound the meat to force it into the barrel, under the penalty of ten dollars for every such offence.

Branding
of barrels.

And be it further enacted, That if any person within this State, shall secure and put up any quantity of beef or pork, not less than two hundred barrels of each, within one year, and shall put the same in barrels or half barrels, containing the weight specified in this act, and shall produce a certificate from a justice of the peace of the place where such beef or pork was put up, purporting that such person had cured and put up the number of barrels or half barrels aforesaid, containing the weight

Persons
packing
over two
hundred
barrels a
year.

aforesaid, within the same year, together with an affidavit to the same purport of the person who did cure and put up such beef and pork, it shall be lawful for such person to export such beef and pork, without being further repacked, upon branding his name at full length on one head of each barrel or half barrel.

Branding
of name of
maker of
barrels.

And be it further enacted, That no beef or pork put up in this State, shall be repacked, unless the barrels or half barrels containing the same shall be branded on the bilge or side with the initial of the christian name and the surname at full length of the person making or causing such barrels or half barrels to be made; and it shall be the duty of the person making or causing to be made such barrels or half barrels, to brand the same as aforesaid.

Where re-
packing
may be
done; fees.

XVII. And be it further enacted, That it shall be lawful for any owner of any beef or pork, to have the same repacked in any store, yard or vessel, except in the city and county of New York, by either of the said repackers; and that no beef or pork shall be repacked in any place in the city and county of New York, except in the stores to be appointed for that purpose by the said repackers, according to the directions of this act, under the penalty of ten dollars for every such offence; that the repackers shall have and receive from the owners of beef and pork, for repacking the same, in the stores by the said repackers provided for that purpose, at the rate of twenty cents, for each barrel, and twelve cents for each half barrel; and if repacked in any other store, yard or vessel, twenty five cents for each barrel and fifteen cents for each half barrel, and whether repacked in the store provided by the repacker, or in any other yard, store or vessel, the repacker shall receive for each hoop wanting and put on by such repacker, three cents; and for flagging, nailing, pegging and pickling each barrel, twelve and an half cents, and each half barrel nine cents, the owner paying for or furnishing the salt and salt petre: And the owner of any beef or pork is hereby authorised by himself, and if he choose in his own store or yard to hire his beef or pork pickled after it has been inspected and branded according to the provisions of this act.

Exporta-
tion of un-
inspected
beef or
pork for-
bidden.

And be it further enacted, That no beef or pork shall be exported from this State unless repacked as aforesaid, and if any person shall export or ship for exportation out of this State, any beef or pork not being inspected and branded by one of the sworn inspectors as aforesaid and pickled by such inspector or the owner thereof, every such exporter or shipper, and the master of every vessel having on board uninspected beef or pork, shall upon conviction respectively forfeit and pay the sums following, that is to say, for every barrel so exported or shipped for exportation, the owner or exporter shall forfeit the sum of five dollars; and the master of every vessel having the same on board, the sum of one dollar: *And further* that the said repackers and inspectors and every of them shall have full power and authority by virtue of this act, on suspicion that any beef or pork, not inspected as aforesaid, hath been shipped in any vessel for exportation, to apply to any justice of the peace, and on oath to assign to such justice the causes of such suspicion and if the said justice shall think the said suspicion well grounded, he shall issue his warrant to the said inspector or inspectors, to enter on board any vessel whatever, loading or laden in this State, either in whole or in part, and to search for, and make discovery of any beef or pork shipping or shipped on board any such vessel for exportation out of this State; and if any of the inspectors shall discover any beef or pork not repacked, branded and pickled as directed in and by this act, on board of any such vessel, such inspector shall apply to such justice of

Search by
inspectors.

the peace, who is hereby authorised and required to issue his warrant, directed to some peace officer or officers, commanding him or them to enter on board every such vessel having on board such uninspected beef or pork, and cause the same to be relanded and delivered to the owner or owners, upon his or their paying the expence of such search and relanding; and if any person shall obstruct or hinder any inspector from making such search as aforesaid, or any peace officer in relanding such beef or pork, he shall forfeit and pay the sum of two hundred and fifty dollars.

And be it further enacted, That if any person shall, at any time hereafter, fraudulently intermix, take out or shift any beef or pork that has already been repacked and branded, every such person shall forfeit and pay for every such offence, the sum of fifty dollars; and if any person shall fill up with beef or pork any barrel or half barrel, from which beef or pork has been taken and which was branded as by law directed, and shall sell it, or offer to sell it, under the old brand shall forfeit the sum of fifty dollars for each barrel, and twenty five dollars for each half barrel so filled up and sold or offered for sale. Fraudulent intermixing.

And be it further enacted, That no inspector or repacker of beef and pork shall hereafter, under any pretence whatever, buy or sell any beef or pork excepting remnants which may be occasioned by the barrel overrunning or falling short of the weight required by law. Inspector not to be a dealer.

And be it further enacted, That if any repacker of beef or pork shall neglect or delay to repack any merchantable beef or pork, when thereunto required by the owner or owners thereof, for the space of forty eight hours, every such repacker shall, for every neglect, pay to such owner or owners the sum of five dollars: And no inspector of beef and pork shall inspect or brand any cask of beef or pork out of the city or county for which he shall be appointed an inspector, upon pain of forfeiting the sum of fifty dollars; and if any persons, other than the said inspectors shall brand any casks of beef or pork in the manner directed by this act, every person so offending shall forfeit the sum of fifteen dollars for every cask so branded. Neglect by repacker.

And be it further enacted, That for every offence which the said repackers shall commit against the true intent and meaning of this act, he or they so offending, and being thereof convicted, shall forfeit one hundred and fifty dollars, and be rendered incapable of serving again in the office. Penalty for offenses.

And be it further enacted, That every of the forfeitures and penalties aforesaid may be recovered, with costs of suit, before any justice of the peace, or in any court having cognizance thereof, by any person who will sue and prosecute for the same; one moiety of which said forfeitures and penalties, when recovered, shall be paid to the overseers of the poor of the city or town, where the offence shall be committed, for the use of the poor thereof, and the other moiety thereof to such person as will sue for the same as aforesaid. How penalties recovered.

And be it further enacted, That it shall be the duty of the secretary of this State to furnish the said inspector-general with the names of all persons who shall be appointed inspectors and repackers of beef and pork in any part of this State, and with the names of all inspectors and repackers who shall be displaced, immediately after the same shall be so appointed or displaced without fee or reward. Names to be furnished by secretary of State.

And be it further enacted, That it shall be the duty of every deputy inspector appointed as aforesaid, in the month of May in every year hereafter, to make return to the inspector-general of the number of barrels and half barrels of beef and pork inspected by him in the pre- Deputy Inspector and inspector-general returns by.

ceding year, agreeably to the directions of this act, designating in such return the number of each; and it shall be the duty of the said inspector-general in the month of June annually to make return to the person administering the government of this State for the time being of the whole number of barrels and half barrels of beef and pork inspected as aforesaid, by him and his deputies in the preceding year, designating in such return the number of each.

Rounds of
beef.

And be it further enacted, That nothing in this act contained shall prevent the exportation of rounds of beef in kegs or tubs, as is now practised. *Provided however* that the name of the person who shall put up such rounds shall be branded on the head of each keg or tub, under the penalty of ten dollars for each keg or tub not branded as aforesaid.

CHAP. 139.

AN ACT to incorporate the Cats-kill Bridge Company.

PASSED the 4th of April, 1801.

Catskill
Bridge
Company
incorporated.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That Joseph Graham, Garrit Abeel, John M. Canfield, George Hale and Solomon Chandiler and their present and future associates their successors and assigns, be and they are hereby created a body corporate and politic, by the name of the president and directors of the Catskill Bridge Company for the purpose of building a bridge over the Catskill creek at or near the place where the road from Kingston intersects said creek near the red store built by Jacob Bogardus on the west side of said creek, to the road on the east side of said creek leading to the house occupied by Terence Donnally, or at a place betwixt the one above described and a place situate twenty rods above the sloop navigation of the said creek to be determined as hereafter directed and they are hereby ordained constituted and declared to be for ever hereafter a body politic and corporate in fact and in name, and by that name they and their successors, shall and may have continual succession and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places whatsoever, and that they and their successors may have a common seal, and make, change and alter the same at their pleasure, and also that they and their successors by the same name and stile, shall be in law capable of purchasing, holding and conveying any estate real and personal for the use of the said corporation, *provided* the real estates so to be holden shall be such only as shall be necessary to promote or attain the objects of this incorporation.—

Subscription
to
stock.

And be it further enacted, That Joseph Graham, Gerrit Abeel, John M. Canfield, George Hale, and Solomon Chandiler be and they are hereby appointed commissioners to do and perform the several duties herein after mentioned, they shall, on or before the first day of June next procure five books, and in each of them enter as follows, we whose names are hereunto subscribed do for ourselves and our legal representatives, promise to pay the President Directors and Company of the Cats Kill Bridge Company, the sum of twenty dollars for every share of stock in the said company set opposite our respective names in such manner and proportion and at such time and place as shall be deter-

mined by the said president directors and company one of which books shall be left with each of the said commissioners at their respective places of abode who shall keep the same open for the purpose of receiving subscriptions, and every subscriber shall at the time of subscribing pay unto either of the said commissioners the sum of three dollars for each share so subscribed and the commissioners shall as soon as one hundred shares have been subscribed, cause an advertisement to be inserted in the news paper printed at Cats Kill giving at least ten days notice of the time and place the said subscribers shall meet for the purpose of choosing five directors, who shall be stockholders for the purpose of managing the concerns of the said company for one year, and the day of choosing the said directors shall for ever thereafter be the anniversary day for choosing directors, and a majority of said directors shall be a quorum and capable of transacting the business of the said corporation, and every act of a majority of said directors so met shall be binding on the said corporation, and the said directors elected by a plurality of the votes of the stockholders present shall immediately proceed to the choice of one of their number for president, and the said president and directors may meet from time to time at such time and place as they may find expedient and direct, and shall have power to make such bye-laws rules orders and regulations not inconsistent with the constitution and laws of this State or of the United States as shall be necessary for the well ordering the affairs of the said corporation.

Election of directors.

And be it further enacted, That the said president and directors may continue to receive subscriptions to the stock of the said corporation until there shall be two hundred and fifty shares subscribed, and shall have power to appoint such agents, clerks, workmen and others under them as shall be necessary for executing the business of the said corporation.—

Capital stock.

And be it further enacted, That the number of shares or subscriptions constituting the stock or funds of the said corporation shall not exceed two hundred and fifty shares, and that the amount to be paid for each share or subscription shall be twenty dollars, and that each stockholder be entitled to a number of votes proportioned to the number of shares which he or she shall have or hold in his or her name.—

Id., voting.

And be it further enacted, That it shall not be lawful for any person or persons to erect any bridge or establish any ferry or ferries across said creek within half a mile up the said creek or one mile down the said creek from the place where the bridge aforesaid shall be erected and built by the said company, neither shall it be lawful for any person or persons to cross the said creek after the aforesaid bridge is completed, within the distance above mentioned without paying to the corporation for their use, the toll established by law, but it shall and may be lawful for any person or persons to pass and repass with his or their own boat or on the ice without being subjected to such toll.—

Other bridges and ferries prohibited.

And be it further enacted, That in case the aforesaid bridge shall not be erected built and completed on or before the first day of November in the year of our Lord one thousand eight hundred and four, then the corporation created by this act shall be adjudged and considered as dissolved.—

Time allowed for building bridge.

And be it further enacted, That it shall and may be lawful for the said corporation to demand receive and take for the use of said bridge a toll not exceeding the following rates, every four wheeled pleasure carriage drawn by two horses twenty five cents, if drawn by four horses thirty one cents, every two wheel pleasure carriage drawn by one horse twelve and an half cents, and if drawn by two horses fifteen cents, every

Rates of toll.

waggon and two horses nineteen cents, if drawn by four horses twenty five cents, each sled and horses nineteen cents, each ox cart and two oxen nineteen cents, each other yoke of oxen six cents, every one horse cart twelve and an half cents, every one horse sled ten cents every ox sled drawn by one yoke of oxen nineteen cents every other yoke of oxen six cents, every man and horse six cents, every foot passenger three cents, every horse jack or mule four cents, every cow or other neat cattle two cents, every sheep hog or calf one cent.

Assess-
ments on
stockhold-
ers.

And be it further enacted, That it shall and may be lawful for the said directors, to call on and demand from the stockholders respectively all such sums of money by them subscribed or to be subscribed, at such times, and in such proportions as they shall see fit under pain of forfeiture, of their shares, and of all previous payments thereon, to the said president directors and company.

Treble
damages
for injury
to bridge.

And be it further enacted, That if any person or persons shall willfully do or cause to be done any act whatsoever whereby the said bridge or any thing appertaining to the same shall be impaired weakened or injured the person or persons so offending, shall forfeit and pay to the said company treble the amount of the damages sustained by means of such offence or injury, to be recovered by said company with costs of suit and by action of debt in any court of record having cognizance thereof, which action shall in every instance be considered as transitory in its nature and shall and may be triable in any county in this State.

How
bridge
built.

And be it further enacted, That said bridge shall be built at least twenty feet wide and be well covered with plank not less than three inches thick the sides of said bridge to be secured with good substantial railings, and to be so constructed with a draw to open at least thirty feet so as to conveniently admit masted vessels to pass and repass said bridge, which said passage shall be a free open highway, and shall be freely used without toll or reward.

Attendant
to open
draw.

And be it further enacted, That the said president directors and company when they have compleated and finished said bridge shall at all times thereafter, as well by night as by day provide and keep a sufficient person or persons to attend and open said draw bridge during the season of navigation, and such person or persons so attending on sufficient notice being given to them by the master or owner of any vessel having necessary business, or occasion to pass said bridge by the blowing a horn or otherways, such person or persons so attending said bridge shall immediately open or cause the draw to be opened and shall permit every such vessel to pass through the said draw, unmolested and freely as aforesaid.

Unneces-
sary delay
at draw.

And be it further enacted, That when any vessel shall be unnecessarily detained from passing through the said draw for more than fifteen minutes, by the refusal neglect or delay of any person or persons so attending the said bridge, after such notice given as aforesaid, the said president directors and company shall on demand pay to the master or owner of such vessel so unnecessarily detained the sum of four dollars, for every half hour the said vessel shall be detained beyond the said fifteen minutes, and the master or owner of any vessel as aforesaid at whose request the said draw shall be opened, shall use all due diligence and expedition in passing such vessel through said draw under the like forfeitures of four dollars for every half hour of unnecessary delay after the said draw shall so have been opened fifteen minutes to admit such vessel to pass through.

Where
bridge
built.

And be it further enacted, That the place where the said bridge shall be built (within the limits as mentioned in this act) shall be determined

by the judges of the courts of common pleas and general sessions of the peace and the supervisors of the county of Green or a majority of them on or before the first Tuesday in June next and their determination shall be final and conclusive.

And be it further enacted, That provided the said judges and supervisors shall determine that the most proper place to build said bridge is at the head of sloop navigation then and in such case it shall not be the duty of the said president, directors and company, to make or keep in repair any draw to said bridge, unless the sloop navigation shall hereafter be opened as far up said creek as the store now occupied by Samuel Haight, any thing in this act to the contrary notwithstanding.

When draw need not be made.

And be it further enacted, That this act be and is hereby declared to be a public act and shall be construed benignly and favorably for every beneficial purpose herein intended.

How act construed.

And be it further enacted, That if the same bridge after the same shall have been completed, shall at any time be impassable for the term of thirty days, that then the said corporation shall cease, and the same is hereby declared in such case, to be dissolved. *Provided nevertheless,* that no such dissolution of the said corporation shall take place, if the said bridge shall be carried away by ice, freshets or any unavoidable accident, in case the same shall not be rebuilt within two years, after the same shall be so carried away. *And provided also,* that nothing in this act contained, shall be deemed to inhibit ferriages across the said creek, until the said bridge is completed and during such times as the said bridge shall be so out of repair, as not to admit the safe passing the same, and during such times, as the said bridge shall be carried away as aforesaid, and remain unbuilt and unfit for passage.

In case bridge becomes impassible.

CHAP. 140.

AN ACT for the relief of Herman Le Roy and William Bayard.

PASSED the 4th of April, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the commissioners of the land office issue to Herman Le Roy and William Bayard, letters patent for five thousand acres of the lands set apart for opening roads in the western parts of this State, as promised to Nathaniel Gorham and Oliver Phelps, by a resolution of the said commissioners, bearing date the twenty first day of May, in the year one thousand seven hundred and ninety, on their proving to the satisfaction of the said commissioners that the right to such lands, has vested in them by title derived from, or under the said Nathaniel Gorham and Oliver Phelps.

Letters patent to persons named.

CHAP. 141.

AN ACT for the relief of special bail.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That from and after the first Tuesday in November

Suits on special bail, when

may be
com-
menced.

next, no suit shall be commenced upon any recognizance of bail, in any civil action, until a writ of *capias ad satisfaciendum*, or *testatum capias ad satisfaciendum*, shall have issued against the defendant in the original action, directed to the sheriff of the county, in which such defendant was arrested or taken, and such sheriff shall have returned thereon, that the said defendant was not found within his county; and if any action, after the said first Tuesday of November next, shall be commenced upon such recognizance, and it shall not appear on the trial thereof, that a writ of *capias ad satisfaciendum*, or of *testatum capias ad satisfaciendum*, was issued and returned, in the manner herein before mentioned, a verdict shall be found for the defendant: *And further*, that it shall be the duty of the sheriff, to endeavour to serve such writ upon the defendant, any directions which he may receive from the plaintiff therein, or his attorney, to the contrary notwithstanding.—

Service of
writs of
scire facias
on defend-
ant.

And be it further enacted, That in all cases where proceedings shall be had by *scire facias*, after the said first Tuesday of November next, upon any recognizance of bail in civil actions, it shall be necessary, in order to charge the defendant therein, to serve the said writ of *scire facias* upon the said defendant, either by reading the same to the defendant and delivering a copy of the said writ of *scire facias* subscribed by the officer, to whom the same shall be directed, or by his deputies, at the dwelling house, or at the usual place of abode of the defendant (or in case such defendant shall have removed out of this State, at his last usual place of residence within this State at least six days previous to the return thereof, and the manner of such service shall be indorsed on such writ by the returning officer thereof.—

CHAP. 142.

AN ACT to amend the act entitled "An act concerning the bridge over the Mohawk river below the Cohoes falls.—

PASSED the 4th of April, 1801.

Preamble.

WHEREAS Mathew Gregory and Gradus Van Schoonhoven the present lessees of the bridge have by their petition to the legislature set forth that a part of the said bridge hath lately been destroyed and other parts much injured by the ice and water and that the toll now allowed by law will be insufficient to compensate them for the necessary repairs of the said bridge: Therefore,

Additional
toll may be
collected.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful for the commissioners in the said act mentioned by writing under their hands and seals to give to the said lessees and their heirs and assigns full liberty to demand and receive from all passengers with horses carriages and cattle or other articles passing over the said bridge such further and additional rates of toll over and above what is now allowed by law as to the said commissioners or a majority of them shall be thought necessary to enable the said lessees to make such repairs in the said bridge as to render the same safe for the passage of carriages, *provided* that such additional allowance of toll so taken shall not exceed thirty three and one third per cent nor shall such additional allowance be continued for more than four years.—

CHAP. 143.

AN ACT to authorise the surveyor general to sell certain lands to John G Moyer, and to revive the act therein mentioned.—

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the surveyor general and he is hereby directed on the request of John G Moyer to survey, or cause to be surveyed at the cost of the said John G Moyer a piece of land not exceeding six acres, on the east side of Chettenango creek, opposite to lot number nine in the Oneida Reservation; and cause the same to be appraised by one or more persons to be appointed by the surveyor general; and the said surveyor general is hereby authorized, and empowered, on the said John G Moyer's producing to him a certificate, signed by the treasurer and countersigned by the comptroller of this State of his having paid into the treasury, such sum of money, as the said land shall be appraised at; to execute to the said John G Moyer a deed of conveyance of the said land, in common form to him and his heirs forever.

Grant of
lands to
John G.
Moyer.

And be it further enacted, That the act entitled "An act for the sale of lands in the Oneida Reservation to persons therein mentioned" passed the 8th day of April 1800 shall be and is hereby revived and the time for the surveyor generals report to the legislature his proceedings under the same extended to the first day of February next.—

Act recited
revived.

CHAP. 144.

AN ACT to regulate the practice of physic and surgery in this State.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly That no person, who on or before the twenty third day of March in the year one thousand seven hundred and ninety seven, practiced physic or surgery, or administered medicine, or performed surgical operations within this State, shall continue so to do, unless in conformity to the regulations heretofore made, he shall on or before the first day of October in the year aforesaid, have produced satisfactory evidence to the chancellor, one of the judges of the supreme court, a master in chancery, or one or the judges of the courts of common pleas within this State, that he has practised physic or surgery, or both, as the case may be, for the term of two years next preceding the said first day of October, or shall in manner aforesaid have produced satisfactory evidence that he has studied physic or surgery, or both, as the case may be, with one or more reputable physicians or surgeons, for the term of two years, and shall have obtained from the magistrate or officer before whom such evidence was adduced, a certificate under his hand and seal that such satisfactory evidence has been produced to him, and shall have filed such certificate in the office of the clerk of the county, in which he then resided; and every person who shall not have obtained

Who may
practice
physic and
surgery in
this State;
penalty.

and filed such certificate, and shall hereafter practice physic or surgery, administer medicine or perform surgical operations, shall forfeit and pay for every offence the sum of twenty five dollars, to be recovered by action of debt, with costs of suit in any court having cognizance thereof; one half thereof to the use of the person who shall prosecute for the same, and the other half to the use of the county in which such conviction shall be had, to be by order of the court paid to the treasurer thereof.

How persons may become licensed to practice.

And be it further enacted, That no person removing into this State from any of the United States, shall after three months subsequent to such removal, and no other person, except such as may be authorised in conformity to the preceding section, shall at any time practice physic or surgery, administer medicine or perform surgical operations, within this State, unless it be under the immediate direction of a physician or surgeon with whom he may serve an apprenticeship, or study to qualify himself for the profession, until he shall have produced to the chancellor, one of the judges of the supreme court, or master in chancery, or one of the judges of the courts of common pleas within this State, a certificate subscribed by one or more physicians or surgeons with whom he has served an apprenticeship, for the purpose of being taught the art of physic and surgery, or with whom he has studied for that purpose specifying, that the person in whose favour such certificate is given, hath regularly studied physic or surgery, or both (as the case may be) with the subscriber or subscribers of such certificate for the term of four years, and that he is sufficiently qualified to practice physic or surgery, or both (as the case may be) to which certificate if the subscriber or subscribers be resident within this State, he or they shall make oath before either of the magistrates, or officers herein before mentioned and the magistrate or officer by whom such oath shall be administered, shall then indorse on such certificate a permit that the person therein named, is in conformity to law permitted to practice physic or surgery or both (as the case may be) within this State, and shall subscribe such permit with his name and affix his seal thereto; and the person in whose favor, such permit shall be granted shall file the same in the office of the clerk of the county wherein he resides; and every person offending in the premises, shall for every offence forfeit and pay the sum of twenty five dollars, to be recovered and applied in like manner as the forfeiture mentioned in the preceding section of this act; *provided always*, that if the person in whose favor such certificate shall be given, shall produce satisfactory evidence that he has been graduated in any college or university in this State, or elsewhere, then he shall be entitled to such permit, although he should not have studied physic or surgery or both (as the case may be) any longer than three years. *And provided also*, that if any such certificate shall be given and attested to by one or more physicians or surgeons, not resident within this State, the same shall be attested to before, and certified under the hand and seal of a judge of the supreme or superior court of the State, in which such certifying physician or surgeon shall reside, and be produced to the chancellor or one of the judges of the supreme court of this State, and if it shall appear to the satisfaction of the chancellor or judge that the certificate and signature of the judge before whom such attestation was made, is genuine, he shall then and not otherwise indorse thereon such permit as aforesaid; *and provided further*, that if any physician or surgeon with whom a person applying for such permit, has studied physic or surgery, or both should be dead, or not resident within this State, such permit may nevertheless be granted upon satisfactory evidence being adduced

of such death or non residence, together with satisfactory proof that he has studied physic or surgery, or both, (as the case may be) for the term of four years; in which proof shall be specified the name or names of the physicians or surgeons with whom he has studied.

And be it further enacted That nothing in this act contained, shall prevent any person upon any sudden emergency, from administering medicine or performing surgical operations, without the aid of a regular physician or surgeon, if the same shall be deemed necessary, but such person shall not be entitled to demand or recover any compensation therefor. Sudden emergency

V. And be it further enacted, That nothing in this act contained, shall be construed to affect any person who may have obtained, or shall hereafter obtain the degree of bachelor, or doctor of medicine, or any other degree or license conferring a right to practice physic or surgery, by any academy college or university, within this State or elsewhere having authority to confer such degree, *provided* that the person having obtained, or who shall obtain such degree, shall file a copy thereof in the office of the secretary of this State, or in the office of the clerk of the county wherein he shall reside; but until such copy shall be so filed, the person in whose favor such degree or license be given, shall not practice physic or surgery within this State, without being liable to the forfeiture and payment of twenty five dollars, to be recovered and applied as other forfeitures by this act are directed to be recovered and applied. Graduates of medical colleges.

And be it further enacted That nothing in this act contained shall be construed to prohibit any physician or surgeon, residing in any other State and duly authorized to practice physic or surgery in such State from practising within this State whenever thereunto required by any citizen thereof.— Physicians of other States.

And be it further enacted That if any person shall counterfeit any certificate or permit intended by this act and shall be thereof convicted in the supreme court, any of the circuit courts, or courts of general sessions of the peace, the court shall in their discretion punish the offender by fine and imprisonment, and the person so convicted, if a practising physician or surgeon, shall never thereafter be permitted to practice physic or surgery within this State. *Provided always* that such fine shall not exceed one hundred dollars. Counter-fetting certificates.

CHAP. 145.

AN ACT for the relief of William Cockburn and for other purposes

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That it shall and may be lawful for the commissioners of the land office, and they are hereby authorized and required to grant letters patent to William Cockburn for all that certain lot or parcel of land at the blue mountains on the north side of the Cadars kill, in the counties of Green and Ulster, beginning at a black oak tree marked with a blaze and three notches on four sides, standing on the north side of the Cadars kill, being the north west corner of a tract of land granted to John Lamb; and also the most westerly corner and place of beginning of one hundred acres granted to George Southerland Letters patent to William Cockburn.

and John Harvie, and runs from thence south sixty six degrees, thirty minutes west six chains, then north thirty four degrees east one hundred and twenty five chains to a tract of two hundred acres granted to William Baker, then along the bounds of the last mentioned tract, south twelve degrees thirty minutes west eighty chains to the northerly bounds of the said tract granted to Southerland and Harvie, thence along the bounds of the said last mentioned tract south sixty eight degrees west, fifty five chains to the place of beginning containing two hundred acres. *Provided* the said two hundred acres of land have not been otherwise appropriated and remain unsettled by any other person than the said William Cockburn —

Part of act
repealed.

And be it further enacted, That the act entitled "An act for the relief of William Cockburn, Alexander McNish and others passed the 30th day of March 1799 be and the same is hereby repealed so far as the same relates to the commissioners of the land office granting certain lands to William Cockburn.

And whereas the legislature have a law passed at the present session, entitled "An act for the sale of a parsonage belonging to the Reformed Low Dutch Congregations in Queens county and the disposition of the avails thereof — granted power to Tunis Hoagland to convey in fee a parsonage house and lot of land at Jamaica in Queens county; *and whereas* it hath been represented to the legislature since the passing of said law that the title to the said parsonage is not vested in the said Tunis Hoagland, but that the title to the same is vested in Abraham Polhemus of the city of New York being heir at law of Abraham Polhemus one of the eight persons to whom the conveyance of the said parsonage was made and who was the last survivor. Therefore

Authority
granted
Abraham
Polhemus
to convey
lands.

Be it further enacted, That the same power and authority granted in and by the act to the said Teunis are hereby granted to the said Abraham Polhemus as fully and effectually as the same is granted to the said Tunis Hoagland in and by the said act, and that so much of the said act as impowers the said Tunis Hoagland to alien the same in fee is hereby repealed.

CHAP. 146.

AN ACT relative to district attornies.

PASSED the 4th of April, 1801.

District
attorney
districts of
the State.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the person administering the government of this State, shall as often as may be necessary, by and with the advice and consent of the council of appointment, appoint and commission a proper person to the office of district attorney in each of the districts hereinafter mentioned, each of whom shall be of the degree of counsel in the supreme court, and resident in such district; and that the said districts shall be as follows, to wit, the city and county of New York, and the counties of Suffolk, Queens, Kings, Richmond and Westchester shall be one district; the counties of Rockland, Orange, Dutchess, Ulster and Delaware shall be one other district; the counties of Green, Columbia and Rensselaer shall be one other district; the counties of Washington Essex and Clinton shall be one other district; the counties of Albany, Saratoga, Montgomery and Schoharie, shall be one other district; the counties of Otsego, Herkimer, Oneida and Chenango shall be one other district; and the counties of Tioga, Onondaga, Cayuga,

Ontario and Steuben shall be one other district; that except with respect to the courts of oyer and terminer and gaol delivery in the city of New York, it shall be the duty of the several district attorneys, to attend the courts of oyer and terminer and gaol delivery and general sessions of the peace, to be from time to time held within the districts, for which they are, or shall be appointed respectively, and to conduct all prosecutions for crimes and offences cognizable in the said courts, and that it shall be the duty of the attorney general to conduct all public prosecutions, at the courts of oyer and terminer and gaol delivery in the city and county of New York. *Provided nevertheless*, that it shall be lawful for the person administering the government of this State, or any judge of the supreme court by writing under his hand to require the attorney general to attend the court of oyer and terminer and gaol delivery to be held in any county, and it shall be the duty of the attorney general to attend accordingly, and thereupon to conduct at such court all public prosecutions; and the district attorney for such district, shall in such matters as appertain to his office, and shall be required of him by the attorney general, aid in conducting the same, and it is hereby declared, that for their services and expences on these occasions, the attorney general and the district attorney shall be deemed to be entitled to an additional allowance beyond the usual salary or other compensation to be audited by the court of exchequer and paid in like manner as the other compensation allowed to the district attorney.

And be it further enacted, That the attorney general shall with respect to attainders, outlawries and convictions in the supreme court, and in the courts of oyer and terminer and gaol delivery in the city and county of New York, and the respective district attorneys, shall with respect to attainders, outlawries and convictions in the courts of oyer and terminer and gaol delivery, in the other counties and in the courts of general sessions of the peace in the several counties within their respective districts, of any person for any manner of treason or felony, without fee or reward, certify into the court of exchequer, at the next term, there to remain of record, a transcript containing the tenor and effect of every such attainer, outlawry or conviction, and of the indictment upon which the same shall be so had; that is to say, the name, surname, and addition of every such person so convicted outlawed or attainted, and the felony or other offence whereof he shall be so convicted outlawed or attainted, and the day and place of the conviction outlawry or attainer, and before whom the same was had, and the day and place, when and where the said felony or other offence was done, and the judgment thereupon given, upon pain to forfeit for every omission or neglect the sum of twenty five dollars, to the people of this State; and the clerk of the court of exchequer shall receive all such certificates and transcripts when the same shall be presented and offered to him by any of the officers aforesaid without taking any thing for the same; and shall at all times without fee or reward, when requested by the attorney general of this State, or by any prosecutor against any person named in any such certificate or transcript, for any second offence make and deliver to the attorney general or prosecutor, a true copy of such certificate or transcript, certified under his hand and the exchequer seal; and every such copy so certified, shall be good evidence of such former conviction, outlawry or attainer.

And be it further enacted That the accounts of the several district attorneys for their services, shall be examined and audited in the court of exchequer; and the amount of their compensation thereupon to be allowed, shall be paid by the treasurer of the State on the warrant of

Transcripts
of attain-
ders, out-
lawries and
convic-
tions.

Accounts
of district
attorneys.

the comptroller to be issued on a certificate of such compensation under the hand of the judge and seal of the said court.

And be it further enacted, That it shall be the duty of the district attorney of the district in which the Oneida and Stockbridge tribes of Indians reside, to advise and direct the said Indians in all controversies that may arise between the said tribes, or any individual thereof and any other person whatever, and to defend every suit that may be instituted against the said Indians or any of them, and also to institute any suit he may deem necessary and proper for the said Indians; and in case of trespasses committed on the lands reserved for the use of the said Indians, to bring such suits in the name of the Oneida or Stockbridge Indians, as may be necessary, to recover damages for such trespasses; and the monies to be recovered, after deducting the expences attending the recovery shall be paid over by such district attorney to the treasurer of this State, to and for the use of the said Indians, and it shall be sufficient in the declarations in such suits to charge the defendant or defendants with having broken and entered the close of the Oneida or Stockbridge Indians, and cut, taken and carried away the trees timber or other property, as the case may be, then and there being, *provided nevertheless* that in the prosecution or defence of any such suits, the district attorney shall observe such advice and directions as shall be given him, if any, by the person administering the government of this State.

And be it further enacted, That such district attorney shall receive as a compensation in the premises, one hundred and fifty dollars per annum.

CHAP. 147.

AN ACT relative to Indians.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That if any person, without the authority and consent of the legislature of this State, shall in any manner or form, or on any terms whatsoever purchase any lands, within this State of any Indian or Indians residing therein, or make any contract with any Indian or Indians for the sale of any lands, within this State, or shall in any manner, give, sell, demise, convey or otherwise dispose of, any such lands, or any interest therein, or offer so to do, or shall enter on or take possession of or settle on any such lands by pretext or color of any right or interest in the same in consequence of any such purchase, or contract made since the fourteenth day of October, one thousand, seven hundred and seventy five, and not with the authority and consent of the legislature of this State, every such person shall in every such case, be deemed guilty of a public offence, and shall on conviction thereof before any court having cognizance of the same, forfeit and pay to the people of this State, two hundred and fifty dollars, and be further punished by fine and imprisonment at the discretion of the court—

And be it further enacted, That no person shall sue or maintain, any action on any bond, bill note, promise or other contract hereafter to be made, against any of the Indians, called the Stockbridge Indians, nor against any Indian residing in Brothertown, or on any lands reserved to the Oneida, Onondaga or Cayuga Indians and every person, who shall

sue or prosecute any such action against any of the said Indians shall be liable to pay treble costs to the party grieved, *provided* that this section shall not extend to any action or suit on any contract made before the first day of July, in the year one thousand seven hundred and ninety —

And be it further enacted, That if any person shall sell to any Indian belonging to the Oneida, Stockbridge, or Brothertown tribe any rum, brandy, gin, or other ardent spirits, within the counties of Oneida or Chenango, he shall be deemed guilty of a public offence and on conviction thereof be fined at the discretion of the court not exceeding twenty dollars for one offence and shall also forfeit the sum of five dollars for every such offence to be recovered in an action of debt with costs in any court having cognizance thereof by any one who will sue for the same, the one half of which forfeiture to be paid to the prosecutor, and the residue to the overseers of the poor for the town in which such recovery shall be had for the use of the said poor; *provided* that on the recovery of such forfeiture the offender shall not be liable to any other or further prosecution for the said offence —

Sale of
spiruous
liquors
prohibited

And be it further enacted That if any person shall sell any rum, brandy, gin or other ardent spirits, within the limits of the tract of land owned by the Muheconnuck or Stockbridge Indians, or within the reservation lands of the Oneida or Brothertown Indians he shall forfeit twenty dollars for every such offence to be recovered with costs in manner aforesaid, one half thereof to be paid to the prosecutor, and the residue to the district attorney of the district within which the said tribes of Indians reside, to be by him paid into the treasury of this State, for the use of the tribe of Indians where such offence shall happen —

Sale on
Indian
lands.

And be it further enacted That no pawn taken of any Indian within this State for any spirituous liquor, shall be retained by the person to whom such pawn shall be delivered, but the thing so pawned may be sued for and recovered with costs of suit, by the Indian who may have deposited the same before any court having cognizance thereof.

Pawns may
be recovered.

And be it further enacted, That it shall be lawful for the comptroller on the order of the person administering the government of this State, to draw his warrants on the treasurer for the payment of such sums of money as shall from time to time be necessary for incidental charges attending Indian affairs not exceeding five hundred dollars in any one year, and it shall also be lawful for the person administering the government of this State to appoint such persons, as he shall see fit to provide for and entertain all Indians who may visit the seat of government on any business, and to order the comptroller to draw his warrant on the treasurer for such sum or sums of money to defray the expence of entertaining such Indians in favor of such persons as he shall direct, not exceeding in any one year the sum of one thousand dollars —

Incidental
charges
attending
Indian
affairs.

And be it further enacted, That all the agreements and stipulations heretofore made by agents appointed on the behalf of this State, with the Oneida, Onondaga and Cayuga tribes of Indians, and the Indians called the St. Regis Indians respectively, as contained in certain articles of agreement bearing date respectively on the twenty seventh and twenty eighth days of July, and the fifteenth day of September in the year one thousand seven hundred and ninety five, and in a treaty made with the said Oneida Indians on the first day of June in the year one thousand seven hundred and ninety eight and in a treaty made with the said St. Regis Indians, on the twenty third day of May in the year one thousand seven hundred and ninety six, and which are filed in the office

Certain
treaties
confirmed

of the secretary of this State, shall be, and hereby are ratified and confirmed—

And be it further enacted That the treasurer of this State shall annually on the warrant of the comptroller pay to the order of the person administering the government of this State, out of any monies in the treasury the following sums, to wit, the sum of four thousand eight hundred and sixty-nine dollars and twenty eight cents, for the use of the Oneida tribe of Indians, the further sum of two thousand dollars for the use of the Onondaga tribe of Indians, the further sum of two thousand three hundred dollars for the use of the Cayuga tribe of Indians and the further sum of fifty dollars for the use of the posterity of the Cayuga chief, Fish Carrier, being the annuities to be paid to the said tribes, and the posterity of the said Fish Carrier, respectively, and in lieu of all former annuities, in conformity to the said articles, and the said treaty with the Oneida Indians, which said annuities shall be paid on the first day of June in every year at the several places specified in the said articles and treaty for that purpose at the expence of this State, and the person administering the government of this State is hereby authorized to cause the said annuities to be paid in such manner, and by such persons as he shall think proper, and as may be most agreeable to the said Indians, and the least expensive to this State, and for that purpose he may direct the surveyor general to perform the service or make such arrangements or contracts with any other persons relative thereto as he may judge proper. *Provided however* that such part of each of the said annuities, as the person administering the government of this State, shall in his discretion for that purpose direct, shall be first appropriated to the support of the public school, if any, instituted within the limits assigned to the said tribes respectively in which Indian children shall be taught, and that the monies so appropriated for the support of public schools within the said Oneida tribe shall be distributed in such manner, as that the several villages of the said Oneida tribe may, as near as may be, equally enjoy the benefit thereof.

And be it further enacted, That the tract of land of six miles square confirmed by the Oneida Indians to the Stockbridge Indians by the treaty held at Fort Stanwix in the year one thousand seven hundred and eighty eight, shall be called New Stockbridge and be and remain to the said Stockbridge Indians and their posterity forever, but without any power of alienation or right of leasing or disposing of the same or any part thereof—

And be it further enacted, That it shall be lawful for the male Indians residing in New Stockbridge, and above the age of twenty one years on the first Tuesday of May in every year to meet together in New Stockbridge aforesaid, and by a plurality of votes to elect one clerk, and one person to be called a marshal, and three persons to be called peace makers; and it shall be the duty of the said clerk to preside at such meetings; and to enter in a book to be by him provided for that purpose the proceedings of the said meetings, and of the said peace makers as by this act directed and it shall be the duty of the said marshal to execute the orders of the said peace makers made in pursuance of this act.

And be it further enacted That it shall be lawful for the said peace makers as often as they shall judge it necessary to call a special meeting of the said Indians being of the age aforesaid and residing in New Stockbridge, at such times and places, as they shall direct for any of the purposes directed by this act.

XII. *And be it further enacted*, That it shall be lawful for the Indians in New Stockbridge entitled to vote at such meetings by a plurality of

votes at any of the said meetings to determine on the laying out of their said lands for separate improvements, and also to make such bye laws as they shall judge necessary for the improvement of their common lands, laying out and working on high ways, regulating fences, and the trespassing of cattle, under such penalties as they shall direct and not exceeding three dollars for one offence to be recovered by any of the said Indians who will sue for the same in the manner herein after prescribed, *and also* to admit any Indian of any other tribe or nation to become an inhabitant of New Stockbridge, and to enjoy with them equal privileges therein, but all the votes respecting the admission of any such Indian shall be entered in the clerk's book aforesaid —

And be it further enacted, That it shall be the duty of the said peace makers to lay out such parcel or parcels of the said lands in New Stockbridge, as shall be agreed on at any such meeting as aforesaid for the separate improvement of each person or family of the said Indians, which shall be marked out and described by the said peace makers, and a description thereof in writing delivered by them to the said clerk, who shall enter the same in the said book, and every parcel of land so allotted to any person shall be and remain to such person, and his legal representatives, but without the power of alienation except that such person or his representatives may sell the improvement thereof to any other of the Indians residing in New Stockbridge his or their assigns, which sales shall be entered by the said clerk in the book aforesaid, and every person entitled to and possessed of any such parcel of land may bring and maintain an action for any trespass committed thereon by any white person, Indian or any other person —

And be it further enacted, That all contracts made or hereafter to be made by one Indian with another relative to any undivided land in New Stockbridge are hereby declared to be void; and it shall be lawful for the said peace makers to bring actions in their own names for trespasses committed, by any white person, Indian, or any other person on any of the said undivided lands in any court having cognizance thereof; and if any white person shall enter upon any of the said lands whether the same be allotted to any individuals as aforesaid or remain undivided, and shall cut down any timber, or occupy or improve the same, without the consent of the said peace makers, every such person shall forfeit, and pay the sum of twenty five dollars for every such offence to be recovered by the said peace makers in their own names with costs in any court having cognizance thereof, and to be paid by them as they shall deem most beneficial to the use of the said Indians —

And be it further enacted, That it shall be the duty of the said peace makers to lay out such roads and highways in New Stockbridge, and from time to time to order the inhabitants to work the same, and for so many days as shall be directed by a majority of them at their said meetings —

XVI. *And be it further enacted* That it shall be lawful for the said peace makers on the complaint of any Indian being an inhabitant of New Stockbridge, against any other inhabitant thereof for any trespass, debt or demand, or for any offence whereby any penalty mentioned in the twelfth section of this act shall be incurred to direct the said marshal to cause the parties to be brought before them, with their witnesses and to hear their allegations and proofs, and to determine the matters in controversy as shall appear to them to be just, and thereupon to advise the parties to comply with such determination, and in case the parties or either of them, shall refuse so to do the said peace makers shall commit their determination to writing and cause the same to be entered in the

mon lands,
etc.

Apportion-
ment of
lands
among
members
of tribe.

Contracts;
trespasses.

Highways.

Actions for
debt, tres-
pass, etc.

said book to be kept by the said clerk, and the party in whose favor such determination shall be given may recover the amount of the sum awarded thereby as upon a judgment of record in any court having cognizance thereof. *Provided*, that the sum so awarded shall not exceed twelve dollars and fifty cents—

Rev. John
Serjeant.

And be it further enacted, That the reverend John Serjeant a missionary to the said Indians, shall have the like remedy for the recovery of any debt or demand against any of the said Indians in New Stockbridge, as such Indians are entitled to have against each other by the preceding section of this act—

Two peace-
makers
may act.

And be it further enacted, That any two of the said peace makers shall be competent to do and perform, every matter and thing which the said peace makers are authorized to do by this act—

New Eng-
land In-
dians.

And be it further enacted, That the tract of land heretofore set apart for the Indians called the New England Indians, consisting of the tribes called the Mohegan, Montock Stonington, and Narraganset Indians, and the Pequots of Groton and Nehanticks of Farmington, shall be and remain to the said Indians and their posterity, but without any power of alienation by the said Indians, or of leasing or disposing of the same or any part thereof; and the said tract shall be called Brothertown, and shall be deemed part of the town of Paris in the county of Oneida for all purposes in the general execution of the laws and the administration of justice in any of the courts of this State, and any proceeding incident thereto except in cases provided for by this act—

Special
regulations
concerning
Brother-
town
Indians.

And be it further enacted, That the lots or parcels of land, heretofore set apart in Brothertown in pursuance of any former law of this State, for the separate use of any of the said Indians, residing therein shall continue to be separately held and enjoyed by such Indians respectively, and it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment as often as may be necessary to appoint and commission three or more superintendants of the affairs of the Brothertown Indians, who shall hold their office during the pleasure of the said council, *provided* that the superintendants already appointed shall continue to hold their respective offices during the pleasure of the said council, and the said superintendants or the major part of them, on application to them made by or on behalf of any particular Indian shall have power to determine whether such Indians be entitled to settle on the said lands, and if so to assign to such Indian at their discretion a particular lot or parcel of land for that purpose, and it shall not be lawful for any Indian or Indian family or other person to take possession of any part of the said lands unless the same be assigned as aforesaid, and if any Indian to whom any part of the said lands hath been or shall be assigned as aforesaid, hath neglected or shall neglect to take possession of the same within one year after becoming entitled thereto or hath left or shall leave Brothertown for the space of one year such Indian shall be deemed to have forfeited all right to the said land, and the said superintendants shall thereupon at their discretion assign the same to any other Indian then residing in and entitled to land in Brothertown.

Descent
of lands.

And be it further enacted, That upon the death of any Indian residing in Brothertown to whom any land hath been or shall be assigned as aforesaid or who shall be entitled thereto, if such Indian shall die possessed thereof leaving issue, the same shall go to and be equally divided among such issue, if they are all in equal degree of kindred to the deceased, but if such Indian shall leave a child or children, and the issue of a deceased child or children then such issue

shall stand in the place of the parent, and take only such share as the parent would have taken if living, and the like division per stirpes shall be made among the descendants of such deceased Indian in the remotest degree, and if such Indian leave no issue then the said land shall revert to the Brothertown Indians, and the said superintendants shall thereupon assign the same to some other Indian or Indians entitled thereto as aforesaid. *Provided however* that the widow of the deceased shall in all cases have a right to continue in the house her husband died possessed of during her widowhood, and the superintendants shall also assign to her so much of the said land of her husband as they may think necessary.

And be it further enacted, That the treasurer of this State shall annually on the first Monday of August in every year pay out of any monies not otherwise appropriated on the warrant of the comptroller and to the order of the person administering the government of this State the sum of two thousand one hundred and sixty dollars and seventy nine cents being the amount of the interest of the monies arising from the sales of land of the said Indians in Brothertown at the rate of six per cent, who shall cause so much thereof as he shall deem necessary for that purpose to be applied to the maintaining a school in Brothertown for the education of Indian children, and the remainder after payment of the salary of the attorney herein after mentioned to the use of the Indians resident in Brothertown as he shall judge most beneficial for them.

Annuity to
Brother-
town In-
dians.

XXIII. *And be it further enacted*, That it shall and may be lawful for any of the Indians entitled to and residing on lands in Brothertown and to whom land adjoining the public school has been granted, to sell and convey to the peace makers of Brothertown, so much of their said land adjoining the said public school as in the judgment of the said peace makers may be sufficient for the use and accommodation of the master of the said school for the time being not exceeding twenty five acres, for which such Indian or Indians shall be paid by the superintendants out of the annuity of the Brothertown Indians such sum per acre as shall be agreed on by such Indian or Indians, and the said peace makers, and approved of by the said superintendants; and the said land so to be purchased as aforesaid shall be held by the said peace makers and their successors in trust for the sole use and accommodation of such schoolmasters as shall from time to time be employed in keeping the said public school —

Lands for
school.

And be it further enacted, That it shall be lawful for the person administering the government of this State as often as may be necessary by and with the advice and consent of the council of appointment to appoint and commission some proper person learned in the law to be the attorney of the said Indians during the pleasure of the said council, but the person already appointed attorney as aforesaid shall continue in office during the pleasure of the said council, and the said attorney shall from time to time advise and direct the said Indians residing in Brothertown in the controversies among themselves, and with any other person, and defend all actions brought against any of them by any white person, and commence and prosecute all such actions for them or any of them as he may find necessary or proper; and in the prosecution and defence of any such actions he shall observe and pursue such advice and directions as shall be given him, if any, by the said superintendants, and shall receive as a compensation for his services and expences in the premises the yearly salary of one hundred and twenty five dollars to be paid out of the said interest money —

Attorney
to be ap-
pointed.

**Actions of
trespass.**

And be it further enacted, That it shall be lawful for any Indian whether male or female, to whom any of the said lands in Brothertown has been or shall be assigned as aforesaid, or who shall become entitled to the same, to sue and maintain actions of trespass and to recover damages to his or her own use, for any trespass which shall be committed upon such land —

**Trespass
on com-
mon lands.**

And be it further enacted, That it shall be lawful for the said attorney of the Brothertown Indians to sue and maintain actions of trespass in the name of the Brothertown Indians for any trespass committed since the first day of October in the year one thousand seven hundred and ninety five or which shall hereafter be committed upon any part of the said land set off for the said Indians and not assigned to any particular Indian or family; and the damages to be recovered in every such action after deducting all expences attending the recovery, shall be paid by the said attorney to the said superintendants, to be by them applied to and for the relief and benefit of the Indians then residing in Brothertown —

**Timber,
right to
cut and
use.**

And be it further enacted, That it shall be lawful for the said Indians residing in Brothertown to cut timber on any part of the said tract set apart for their use, whether the same be assigned to any particular Indian or family or not, for the purpose of making or repairing highways and bridges within the same tract, and also to cut timber on any part of the said tract not assigned to any particular Indian or family for the purpose of repairing their buildings and erecting others but for no other purpose; and if any other person shall at any time cut or carry away any timber being upon any part of the said tract set apart for the said Indians every such person shall be liable to an action of trespass for the same notwithstanding any sale, lease or licence from the said Indians or any of them, and if any such trespass be committed upon the land assigned to any particular Indian or family and the person or persons entitled to the same do not within thirty days thereafter require the said attorney for the Brothertown Indians to commence and prosecute a suit for the same, then the said attorney shall bring an action for the same in the same manner, as if the trespass was done on some part of the said tract not assigned to any particular Indian or family; and the declaration in such case shall charge that the defendant broke and entered the close of the Brothertown Indians and cut or carried away the trees or timber there growing or being and no plea or evidence that the place where such trespass was committed had been assigned to any particular Indian or family, nor any licence or release or agreement of any Indian or Indians shall be any bar to any such action; and the damages recovered in every such action shall be applied in the same manner as the damages recovered for the trespasses on the parts of the said tract not assigned to any particular Indian or family —

**Keepers of
the peace
in Broth-
ertown.**

And be it further enacted That it shall be lawful for the person administering the government of this State as often as may be necessary by and with the advice and consent of the council of appointment to appoint and commission five Indians residing in Brothertown to be keepers of the peace there, who shall hold their office during the pleasure of the said council, *provided* that the keepers of the peace already appointed therein shall continue to hold their offices during the pleasure of the said council, and the said keepers of the peace shall severally have power to keep the peace in Brothertown; and any three or more of them shall also have power to hold a court at the school house, or at such other place in Brothertown as they shall appoint on the first Monday in every month, and in such court to hear and determine all

disputes and controversies between any persons residing in Brothertown aforesaid, concerning any debt, demand or trespass, where the sum due or damages sustained shall not exceed the sum of twelve dollars and fifty cents, and all actions for the recovery of the penalty of any bye law to be made at any town meeting in Brothertown as herein after mentioned, and it shall be lawful for either of the said keepers of the peace upon complaint made to him to cause the person complained of to be summoned to appear at the next court to be held at the school house or other place appointed as aforesaid in Brothertown, to answer the complaint, and the said keepers of the peace or the major part of them shall at such next court or other court to which the cause may be adjourned, hear and examine the allegations and proofs of the parties, and make such order and decree between them as shall appear to them to be just, and if such order and decree be not performed in one month thereafter, shall then cause the sum adjudged or decreed to either party to be levied by distress and sale of the goods and chattles of the party who shall be adjudged or decreed to pay the same, together with such fees as are herein after allowed to the marshal for executing the process; but the said keepers of the peace shall not take any fees for their services. And it shall be lawful for the said keepers of the peace to adjourn any cause depending before them to the next court whenever they shall find it necessary; and if the defendant shall not be personally summoned upon the process against him and shall not appear at the return thereof, a news summons shall be issued, but if he shall have been personally summoned then the court may at the return of the summons proceed to hear and determine the cause, whether the defendant appears or not unless a reasonable excuse shall be offered, in which case they shall adjourn the cause to the next court, and the judgment of the said keepers of the peace or of the major part of them, who shall attend upon the hearing of any cause shall be conclusive between the parties—

And be it further enacted, That if any person shall be convicted of any trespass or offence against any bye law to be made as herein after mentioned before the said keepers of the peace, or any three or more of them, and shall not have sufficient goods or chattels to pay the damages or penalty, the keepers of the peace before whom such conviction shall be had shall give a certificate thereof, setting forth, that the defendant (naming him) is convicted of a trespass or breach of bye law in Brothertown, and is adjudged to pay a certain sum of money for the the same to the plaintiff, mentioning the sum, and the plaintiff's name, and that the defendant had not sufficient goods and chattles in Brothertown to pay the same; and upon producing such certificate to the attorney for the Brothertown Indians, and proving before him that the same was made or given by any three or more of the said keepers of the peace, the said attorney shall issue a warrant directed to the sheriff of the county, and to some or one of the constables of the said county, residing near Brothertown, commanding the said constable or constables to take such defendant and convey him to the gaol of the said county, and there deliver him to the said sheriff, and commanding the said sheriff to receive him into the said gaol, and safely keep him there for the space of thirty days unless he shall sooner pay the said sum of money together with the fees for issuing and executing the said warrant, which thirty days shall be computed from the time the defendant shall be delivered to the sheriff or gaoler, and the said sheriff and his deputies, and every constable to whom such warrant shall be directed are hereby required to execute the same, and all expences of executing any such warrant and of supporting any such prisoner in gaol shall be paid

Imprisonment for offenses against by-laws.

by the said attorney of the Brothertown Indians, and the same shall be repaid to him by the said superintendants out of the money belonging to the Brothertown Indians —

Officers to
be elected;
by-laws.

And be it further enacted, That it shall be lawful for the male inhabitants of Brothertown of the age of twenty one years and upwards, and they are hereby required to assemble together and hold town meetings at the said school house on the first Tuesday of April in every year, at which meeting the senior keeper of the peace then present shall preside, and then and there to elect one town clerk, two overseers of the poor, two marshals and so many overseers of the highways as the majority of the inhabitants so met shall think necessary, who shall hold their respective offices for one year, and until others shall be chosen in their place, and if any of the officers so chosen shall refuse to serve or shall die or remove out of the town or become incapable of serving before the next annual town meeting then and in every such case another or others shall be elected in his or their places in the manner aforesaid at a town meeting to be held for that purpose, and the said inhabitants of Brothertown are hereby authorized at their annual town meeting or at any other town meeting to be held for that purpose from time to time, to make and establish such regulations and bye laws as the majority of them so met may think necessary and convenient for the better relief of the poor, and for binding out children whose parents are dead or absent, and for ascertaining what bridges and what part of any highway each of the overseers of the highways shall have the care of and which of the inhabitants shall be obliged to work on the highway, and how many days each of them shall work thereon, and for ascertaining the sufficiency of fences, and the times, places and manner of preventing or permitting cattle, horses, sheep and swine or any of them to go at large, and for ascertaining damages done by trespasses, and for maintaining good order among themselves, and concerning any other matters relating to their own affairs, and to impose such penalties on the offenders against such regulations and bye laws or any of them as the majority of the inhabitants so met shall deem proper, not exceeding five dollars for any one offence to be recovered with costs by any inhabitant of Brothertown, who shall sue for the same by action of debt before the said keepers of the peace or any three of them, the one half of which penalty when recovered shall be for the use of the person who shall sue for the same, and he shall pay the other half to the overseers of the poor of Brothertown to be by them applied to the relief of the poor; and that all such regulations and bye laws shall be entered by the town clerk in a book to be provided for that purpose, and shall continue in force until revoked or altered by some subsequent town meeting, but no special town meeting shall be held for any purpose unless notice thereof signed by two or more of the said keepers of the peace be fixed upon the door of the school house in Brothertown aforesaid, at least six days before the day of holding such town meeting —

Highways.

And be it further enacted, That the said keepers of the peace shall be commissioners of the highway in Brothertown and they or the major part of them shall have power from time to time to alter any highway in Brothertown and to lay out others as there may be occasion, and to direct how and when the same or any of them or any part thereof shall be made, mended or repaired. *Provided always* that all high ways by them laid out shall be at least four rods wide, and they shall cause a record thereof to be entered by the town clerk of Brothertown — and the said overseers of the high ways shall cause the highways and bridges of which they shall be respectively chosen overseers to be repaired and

made according to the directions of the said commissioners and shall warn the inhabitants to work thereon whenever it shall be necessary and shall superintend and direct the same —

And be it further enacted, That the marshals to be chosen in Brothertown as aforesaid shall have the like powers and authority there as constables of other towns in this State have by law in their towns, and shall be entitled to twelve and an half cents for serving every summons, and twenty five cents for serving an execution for any sum not exceeding two dollars and fifty cents and at the rate of ten cents in the dollar for serving every execution for any sum above two dollars and fifty cents —

Marshals.

And be it further enacted, That the said superintendants or the major part of them, or the said attorney of the Brothertown Indians if empowered by them for that purpose, shall from time to time settle all disputes and controversies between the Brothertown Indians concerning their said lands and determine all claims to any of the said lands, and all disputes that may arise concerning the same upon the death of any Indian entitled to any land in Brothertown, and their determination shall be conclusive, and all determinations made by them, or the major part of them, relating to the said land, shall be entered by the town clerk of Brothertown in a book to be provided for that purpose —

Disputes concerning claims to lands.

And be it further enacted, That the overseers of the poor of Brothertown, shall be guardians of the persons and property of all infants in the said town, who shall not have any parents there to take care of them —

Overseers of the poor

And be it further enacted, That it shall not be lawful for any Indian in Brothertown to sell any spirituous liquor without a licence from the said superintendants under the penalty of seven dollars and fifty cents for every such offence, to be recovered before the said keepers of the peace or any three of them, the one half of such penalty shall be to the use of the Indian who shall sue for the same, and the other half to the use of the poor of Brothertown.

Sale of liquors.

And be it further enacted, That the said town clerk in Brothertown shall from time to time be supplied by the said superintendants with such books and paper as may be necessary for the execution of the duties enjoined on him by this act, and shall be paid by the said superintendants annually such sum for his services, as they shall deem adequate —

Town clerk.

And be it further enacted, That it shall be lawful for the male Indians above the age of twenty one years belonging to the Shineeock tribe in Suffolk county to meet together on the first Tuesday of April in every year at the place for holding town meetings in the town of Southampton, and by plurality of voices, annually to elect three persons belonging to the said tribe as trustees, who by and with the consent of three justices of the peace residing next to the lands of the said tribe are hereby authorized and empowered from time to time to lease out so much of the said lands, as they shall judge proper for the benefit of the said tribe, and for any term not exceeding three years, and to lay out and appropriate such quantity of the said lands to each individual or family of the said tribe as they shall judge proper and necessary for his or their improvement, and also to order and direct on what part of the said lands fire wood and timber may be cut by the said tribe for their use, and it shall be the duty of the clerk of the said town annually to attend and preside at such meeting of the said Indians, and to enter in a book by him to be kept for that purpose the names of the trustees to be chosen as aforesaid and the proceedings of such trustees and justices, and if any person shall occupy or use any of the said lands without the

Shineeock Indians, special provisions concerning

consent of a majority of the said trustees and of a majority of such justices first obtained and entered in the said book, such person shall forfeit the sum of five dollars for every acre so used or occupied, and if any person, belonging to the said tribe, shall cut any wood or timber, on the said lands without such order and consent of the said trustees and justices first entered in the said book, such person shall forfeit the sum of ten dollars for each offence, which penalties shall be sued for and recovered by such justices in their own names in any court having cognizance thereof with costs of suit, for the use of the said tribe —

Lands
granted to
Peter Otse-
quette,
concerning

And be it further enacted, That the lands situate in the county of Oneida and heretofore granted to the secretary, the treasurer and the attorney general of this State and their successors in office in trust for Peter Otsequette and his posterity, shall continue to be held by them in trust as aforesaid, and they shall permit the issue of the said Peter Otsequette (who is now deceased) during their natural lives and as long as any such issue shall remain to occupy and improve for their benefit so much of the said lands not already let out or leased by them to any other person as the said trustees shall from time to time think necessary for that purpose, and it shall be lawful for the said trustees from time to time to let out or lease any part of the said lands which shall be unoccupied or unimproved as aforesaid to any other persons upon such terms and conditions and for such time not exceeding twenty one years, or three lives, as the said trustees may think proper, *provided however,* that it shall not be lawful for the said trustees to make any lease in reversion of any part of the said lands, and the rent due or to become due upon any such lease, already made or hereafter to be made, shall be paid into the treasury of this State, and upon the warrant of the comptroller shall by the treasurer be paid to the district attorney for the district in which the children or issue of the said Peter Otsequette reside, to be by him from time to time applied to the support and education of the said children, or issue in such manner as shall appear to be most for their benefit; and the said district attorney shall once in every year account to the comptroller for the expenditure of all monies paid to him as aforesaid —

CHAP. 148.

AN ACT for the relief of Jenney Geraghty.

PASSED the 4th of April, 1801.

Preamble.

WHEREAS it hath been represented to the legislature by Jenney Geraghty, that she was the widow of Abraham Long late of the town of Warwick in the county of Orange deceased; that the said Abraham Long died intestate and without heirs, seised of the several parcels of land following, that is to say; thirty eight acres and three quarters of an acre purchased from Gerret Decker; one other lot adjoining the former, purchased from David Demerest containing twelve acres; also one other small lot purchased from Jacob Mabie, containing six acres and three quarters of an acre in the said town of Warwick in the county of Orange and State of New York. Therefore.

Release of
lands.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That all the right, title, interest, claim and demand whatsoever, of the people of this State of in and to the three lots or parcels of land aforesaid, containing in the whole fifty seven acres and

one half of an acre, be and the same is hereby vested in the said Jenney Geraghty, late widow of the said Abraham Long her heirs and assigns forever. *Provided always*, that nothing in the foregoing clause contained shall in any manner affect a mortgage of the same premises to the loan officers of the county of Orange; and further the said Jenney Geraghty shall be and is hereby made liable to and chargeable with, the payment of all the debts which the said Abraham Long owed at the time of his death, not exceeding the value of the said premises in the same manner as if she was his heir or devisee, which debts shall be a lien on the said estate, and in all actions for any such debt, the value of the premises shall be considered as assets in her hand.

CHAP. 149.

AN ACT further extending the time limited by the last section of the act entitled "An act to settle disputes concerning the titles to lands in the county of Onondaga."

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the period limited by the last section of the act entitled "An act to settle disputes concerning the titles to lands in the county of Onondaga" shall be and hereby is extended to the first Tuesday of March next. *Provided always* that the commissioners under the said act shall adjourn on or before the tenth day of April in the present year, and shall not again meet until the second Tuesday of January next.

Time limited extended.

CHAP. 150.

AN ACT to establish a turnpike road from Cherry Valley to the Chenango river.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That James Ingals, Ozias Waldo, Elihu Phinney, Andrew Sill, Isaac Foote, Obediah German, Alexander McCollum Senior, Rensselaer Williams, Abraham Ten Broeck, Robert Campbell & Elijah Holt and all such persons as shall associate for the purpose of making a good and sufficient road from the house where John Walton now lives in the town of Cherry Valley in the county of Otsego to Cooperstown, and following the post road from thence westward to where it crosses the Chenango river in the town of Sherburne in the county of Chenango shall and hereby are created and made a corporation and body politic in fact and in name, by the name of "The President, Directors and Second Company of the Great Western Turnpike Road; and the said corporation shall by that name be capable in law to purchase, have, hold, enjoy and retain to them and their successors, lands, tenements, hereditaments goods, chattels and effects of every kind whatsoever, and the same or any part thereof to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered unto,

Second Company of the Great Western Turnpike Road incorporated

defend and be defended in all courts of record or any other place whatsoever. *Provided* that the lands to be purchased as aforesaid, shall be such only as may be necessary to carry into effect the object of this act and shall not exceed in value the sum of five thousand dollars.

Subscription to stock. *And be it further enacted* That Elihu Phinney, Andrew Sill, Isaac Foote and Ozias Waldo be and they are hereby appointed commissioners to do and perform the several duties herein after mentioned, that is to say, they shall on or before the first day of June next procure four books and in each of them, enter as follows, we whose names are hereunto subscribed do for ourselves and our legal representatives promise to pay to the President, Directors and Second Company of the Great Western Turnpike Road the sum of twenty five dollars for every share of stock in the said company set opposite to our respective names in such manner and proportion and at such time and place as shall be determined by the said president directors and company, and the said books shall be deposited with such persons and opened at such time and places as the said commissioners may direct, and every subscriber shall at the time of subscribing, pay unto either of the said commissioners five dollars for each share so subscribed; and the said commissioners shall as soon as one hundred shares shall have been subscribed, cause an advertisement to be inserted in one of the news papers printed in the city of Albany and in the news paper printed in Coopers-town giving at least thirty days notice of the time and place the said subscribers shall meet for the purpose of choosing thirteen directors (who shall be stockholders) for the purpose of managing the concerns of the said company for one year; and the day on which the directors shall be chosen shall for ever thereafter be the anniversary day for choosing directors; and the said directors elected by a plurality of votes of the stockholders present, shall immediately proceed to the choice of one of the number for president, and the said president and directors may meet from time to time, and shall have power to make such bye laws, rules, orders and regulations not inconsistent with the constitution or laws of this State or of the United States, as may be necessary for the well ordering of the affairs of the said corporation. *Provided* that no bye laws or regulations shall give or allow more than ten votes to any one stockholder, and that each person shall be entitled to one vote for every share by him held under the said number.

Election of directors.

Right of voting.

Quorum of directors.

And be it further enacted, That no less than seven directors shall constitute a board for the transaction of business of whom the president shall always be one, except in case of necessary absence, in which case his place shall be supplied by another director whom he by writing under his hand shall nominate.

Capital stock.

And be it further enacted, That the president and directors may continue to receive subscriptions to the stock of the said corporation until two thousand shares shall have been subscribed.

Alteration in route.

And be it further enacted, That if it shall appear to the said president and directors that if by deviating from the said post road so called, the distance between the places designated for the commencement and ending of the said road can be materially shortened, it shall be lawful for the president and directors to make such alterations as may be found necessary.

Powers and privileges of corporation.

And be it further enacted, That the said corporation hereby created, shall, except as is herein otherwise provided, have the like powers and privileges as by the act, entitled "An act to establish a turnpike corporation for improving the road from the city of Hudson to the line of Massachusetts on the road to Hartford" passed March the twenty ninth

one thousand seven hundred and ninety nine and the act amending the same passed the twenty eighth day of March one thousand eight hundred are conferred on the corporation therein mentioned, and shall be subject to the like restrictions and regulations as the said last mentioned corporation are made subject to; and shall make and improve the line of road directed by this act in like manner as is enjoined on the same corporation by the said recited act, and also shall be entitled to have and receive the like rates of toll as are allowed to the corporation for improving the road from John Weavers in Watervliet to Cherry Vally aforesaid.

CHAP. 151.

AN ACT concerning the next court for the trial of impeachments and the correction of errors.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the next court for the trial of impeachments and the correction of errors, shall be held in the senate chamber at the city hall of the city of Albany, on the first Tuesday of January next, and shall be continued by adjournment until the business thereof shall be compleated. *And further* that all causes which are adjourned over, or shall be removed by appeal or writ of error into the said court may be heard and determined at the said next meeting of the said court, any law or usage to the contrary in any wise notwithstanding. When next term held.

And be it further enacted, That the senators who may attend the said court shall be entitled to receive the like compensation for their attendance at the said court as for attending the legislature, except as to travelling charges. Compensation of senators.

CHAP. 152.

AN ACT authorising the holding a treaty with the St. Regis Indians and for the relief of William Gray and Jacob Dockstadder.

PASSED the 4th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly That it shall and may be lawful for the person administering the government of this State, to cause a treaty to be holden with the Indians of St. Regis for extinguishing their right to the tract of a mile square at the mill or Grass river; and for that purpose to appoint an agent on the part of this State, and procure the appointment of a commissioner on the part of the United States to attend the holding of such treaty; *provided* that the consideration to be paid the said Indians for the said tract shall not exceed a permanent annuity of two hundred dollars. Treaty to be held with St. Regis Indians.

And be it further enacted That the treasurer of this State shall on the warrant of the comptroller pay out of any monies in the treasury such sum not exceeding five hundred dollars as the person administering the government of the State may require for defraying the expences of holding the said treaty. Expenses of treaty.

Survey of
lands to be
made.

And be it further enacted That it shall be the duty of the surveyor general of this State to cause the meadows reserved to the use of the said Indians upon the said Grass river and which have been disposed of by the State to be surveyed and the quantity thereof ascertained, and thereupon to make report to the legislature at the next session thereof.

Right of
ferriage.

And be it further enacted That it shall be lawful for the said agent to extinguish the right of ferriage belonging to the said Indians over the river St. Lawrence adjoining their reservation for such reasonable annuity as they may deem proper.

Annuities
payable at
Platts-
burgh.

And be it further enacted That the further payments of the annuity stipulated with the said Indians shall be made at the town of Plattsburgh in the county of Clinton any thing in any former law to the contrary notwithstanding.

Appraisal
of improve-
ments of
Jacob
Docksted-
der.

And be it further enacted, That it shall be duty of the surveyor general of this State, to cause the value of the improvements made by Jacob Dockstedder an Oneida Indian upon fifty acres of land at the Canesarago belonging to the State, but appropriated to his use at the last treaty with the Oneida Indians, to be ascertained, and to report the same to the legislature at the next session thereof.

And whereas William Gray of the village of St. Regis, having been early in life taken a prisoner by the Indians calling themselves the Seven Nations of Canada and since continued to reside among them, and being in consequence of adoption and marriage considered as entitled to all rights and privileges as one of their nation, whereby he is equally with others of them interested in the lands secured by the people of this State to the Indians residing at the village St. Regis. *And whereas* it appears that the said Indians are disposed to give to the said William Gray his proportion of their common property to be held in severalty by him and his heirs. Therefore

Grant of
lands to be
made to
William
Gray.

Be it further enacted That it shall and may be lawful for the governor to direct the said agent to obtain from the said Indians their grant to the people of this State and to issue letters patent under the great seal of this State to the said William Gray his heirs and assigns forever, for two hundred and fifty seven acres, bounded on the north by the tract reserved and surveyed for the said Indians and which includes the mill on Salmon river, on the south by the south bounds of the tract equal to six miles square reserved to the said Indians, on the east by the east bounds of the last mentioned reservation, and on the west by a line parallel thereto running from the eleventh mile mark made by the surveyor general in the south bounds of the said reservation, being in length north and south one hundred and sixty four chains and seventy links and in width east and west fifteen chains and sixty links.

CHAP. 153.

AN ACT to reduce several laws relating particularly to the city of Albany into one act, and to make further alterations in the charter of the said city.

PASSED the 4th of April, 1801.

Preamble.

WHEREAS the mayor, aldermen and commonalty of the city of Albany, in common council convened, have by petition under their common seal, prayed the legislature that the alterations herein after contained may be

made in the charter of the said city, and incorporated with the several laws particularly relating to the said city into one act; therefore,

Be it enacted by the People of the State of New York represented in Senate and Assembly, That it shall be lawful for the person administering the government of this State by and with the advice and consent of the council of appointment, yearly hereafter to appoint the several charter officers in the said city who are to be annually so appointed, at any time during the session of the legislature in each year, and every officer so appointed shall hold his office for one year and until another shall be appointed and sworn in his stead, and that the election of aldermen, assistants and chamberlain for the said city shall for ever hereafter be held on the last Tuesday of September in every year; and that the said aldermen, assistants and chamberlain, instead of taking the oaths of office pursuant to the directions of the charter of incorporation granted to the mayor, aldermen and commonalty of the said city, on the fourteenth day of October in every year, shall hereafter take the said oaths or affirmations in the manner prescribed in and by the said charter, on the second Tuesday of October in every year. Charter officers; oath of office.

And be it further enacted, That all that part of the said city now known and called by the name of the first ward and lying westerly of the following line, to wit, beginning on the north side of State street at the southwest corner of the store now occupied by Stewart and Townsend, and running from thence across said State street to and through the middle of Green street, to the intersection of Bone lane with said Green street, from thence with a straight line to and through the middle of Frelinghuysen street to the south bounds of the said city, shall continue to be known and called the first ward of the said city; and that all that part of the said city now known and called by the name of the fourth ward and lying on the east side of the line aforesaid, shall continue to be known and called the fourth ward of the said city: And that the electors of the said two wards, who are qualified in the manner herein after prescribed, shall have and enjoy the same rights and privileges in every respect as those of the other wards in the said city are entitled to; and that hereafter four aldermen and four assistants, together with the mayor or recorder shall be necessary to form a common council. *And further* that that part of Pearl street which lies north of Fox's creek, and that part of the said city which lies to the north of the said creek and to the west of the said street, shall continue to be part of the second ward of the said city. Wards and ward officers.

And be it further enacted, That all male persons being citizens of the United States, and above the age of twenty one years, who shall have resided in the said city for six months next preceding any election for aldermen, assistants or constables, and paid taxes within the same, or shall be possessed of a freehold, or shall have rented a tenement of the yearly value of five dollars for the term of one year within the same, or being an inhabitant and born within the said city of the age aforesaid and no other person shall have a right to vote at such election within the wards in which they shall then actually reside; *and further* that every person offering to vote at any such election shall, before he be admitted to vote, take the following oath or affirmation, if required so to do by the aldermen presiding at such election, that is to say, "I do solemnly swear and declare, or affirm (as the case may be) that I am a citizen of the United States and of the age of twenty one years and have resided within this city for six months last past and paid taxes within the same (or, that I am possessed of a freehold, or have rented a tenement of the yearly value of five dollars for the term of one year Qualifications of electors.

Oath on challenge.

within the same, or that I was born within the said city) and now actually reside within the ward of this city, and have not been before polled at this election;" and that it shall be lawful for the voters at every such election to choose two constables, for each of the said wards; and that if any person offering to vote as aforesaid shall refuse to take the oath or affirmation above prescribed to be by him taken when thereunto required by the aldermen presiding at such election, his vote shall be rejected and disallowed, any charter, law, usage or custom to the contrary notwithstanding.

Vacancies. *And be it further enacted,* That if any of the aldermen or other officers of the said city, chosen as aforesaid, shall die or remove out of the said city before the expiration of the time for which he was chosen to serve in any such office, or shall not be legally qualified to serve in such office, then and in every such case such office shall be deemed to be vacant, and the said mayor, aldermen and commonalty, in common council convened, shall and may order an election to be held, to fill every such vacancy, and appoint a place in the ward for which such election is to be held, and a time not less than five days after the making of such appointment for holding such election, and shall forthwith give notice thereof to the aldermen of the ward in which such vacancy shall happen, and the said aldermen shall thereupon by advertisements put up in at least three of the most publick places, in such ward give notice thereof to the electors of the ward.

Vacancy in office of mayor. *And be it further enacted,* That it shall be lawful as often as the mayor of the said city shall be sick, die or be absent therefrom, for the recorder of the said city, to convene and hold the common council of the said city in like manner, as the mayor of the said city is impowered to convene and hold the same.

Destruction of city hall. *And be it further enacted,* That in case the city hall of the said city shall at any time be destroyed, or it shall in any wise become inconvenient for the common council to assemble there, it shall be lawful for the mayor or recorder of the said city to convene the said common council at such other place within the said city, as the said mayor or recorder shall appoint.

Firemen. *And be it further enacted,* That it shall be lawful for the common council from time to time, to appoint during their pleasure a competent number of able and reputable inhabitants of the said city, being citizens, to take the care and management of the fire-engines and other tools and implements which are or may be procured by the common council for extinguishing fires within the said city and that the persons so appointed shall be called the firemen of the city, of Albany, and be ready at all times with the said engines, tools and implements committed to their care, to aid in extinguishing any fire which may happen within the said city; and that the said firemen shall be, and hereby are declared to be, exempted and privileged from serving in the office of commissioner or overseer of the highways or constable, and from militia duty, except in cases of invasion or other imminent danger, and that for this purpose the name of each fireman to be appointed as aforesaid shall be registered and entered with the clerk of the common council of the said city, and his certificate shall be sufficient evidence in all courts and cases of such privilege and exemption. *And further* that it shall be lawful for the mayor, aldermen and commonalty of the said city, in common council convened, or the major part of them to remove and displace all or any of the firemen now appointed or to be appointed by virtue of this act, as often as they shall think fit, and to appoint others in their stead.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city, or the major part of them, to make such rules and regulations for the government of the said firemen in the using and frequent exercising the said fire engines, and to impose such reasonable fines and forfeitures upon them or any of them for default of the duties and services thereby to be required of them, as the mayor, aldermen and commonalty of the same city, or the major part of them shall from time to time think proper.

Regulations concerning firemen.

And be it further enacted, That upon the breaking out of any fire within the said city, the sheriff, deputy sheriffs, constables and marshalls, then being in the said city, upon due notice thereof, shall immediately repair to the place where such fire shall happen, with their staves and other badges of authority, and be aiding and assisting, as well in the extinguishing of the said fires, and causing the persons attending the same to work, as in preventing any goods or household furniture from being stolen at such fires; and the officers aforesaid shall also give their utmost assistance to the inhabitants in removing and securing their said goods and furniture; and in the execution of the duties required of them by this act, shall in all respects, be obedient to the orders and directions of the mayor, recorder, aldermen and assistants of the said city, or such of them, as shall, from time to time, be present at such fires.

Duty of peace officers in case of fire.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city, if they shall deem it proper to require the inhabitants or owners of houses and other buildings in the said city, to provide themselves with such and so many fire buckets, to be ready in their respective houses and other buildings, for the purposes of extinguishing fires, which may happen in the said city, and to impose such reasonable fines and forfeitures for every default or disobedience thereof, as the said mayor, aldermen and commonalty of the said city, shall deem necessary.

Fire buckets.

And be it further enacted, That it shall be lawful for the common council of the said city from time to time, to make such rules and orders for the better regulating and arranging, with uniformity, such new buildings as shall, after the passing of this act, be erected for habitations, or for the purposes of trade and commerce within the said city; and also for regulating and altering the streets, wharves and slips within the said city, in such manner as shall be most commodious for shipping and transportation; and also to nominate and appoint one or more fit persons, being inhabitants of the said city, to be the surveyors of the buildings, streets, wharves and slips of the said city, whose duty it shall be to direct and see that all buildings, streets, wharves and slips, to be laid out or altered in the said city, be regulated with uniformity, for the accommodation of habitations, shipping, trade and commerce, according to such rules and orders, as by the common council of the said city, shall be for that purpose made; which said surveyors shall, respectively, before they enter upon the duties of their said offices, take the following oath or affirmation before the mayor or recorder, viz, "I appointed a surveyor of the city of Albany do swear (or affirm as the case may be) in the presence of Almighty God, that I will faithfully, truly and impartially execute the office of one of the surveyors of the same city." *Provided always,*

Regulations concerning buildings, streets, etc.

And be it further enacted, That no public buildings shall be erected in any of the streets of the city of Albany

No buildings in streets.

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the said city to prevent the erecting any building that may encroach upon any street within the said city; and if in the

Encroachment on streets; taking of

lands for
public
purposes.

doing thereof, or in laying out any streets, wharves or slips, they shall require for such purposes the ground of any person, they shall give notice thereof to the owner or parties interested therein or to his or their agent or legal representative; and the said common council shall treat with such person for the same; and if any such person shall refuse to treat for such ground, it shall be lawful for the mayor or recorder and any two or more aldermen, by a precept under their hands and seals, to command the sheriff of the city and county of Albany, to impanel and return, and he is hereby required to impanel and return a jury, to appear before the mayor's court of the said city at any term thereafter, not less than three weeks from the date of such precept, to enquire and assess the damages and recompence due to the owner or owners of such ground; and at the same time to summon the owner or owners of such ground, or his or their agent or legal representative by notice to be left at his or their most usual place of abode, to appear before such mayors court, on the day and at the place in such precept to be specified; which jury, being first duly sworn faithfully and impartially to enquire into and assess the damages in question, and having viewed the premises, if necessary, shall enquire of and assess such damages and recompence, as they shall under all the circumstances, judge fit to be awarded to the owner or owners of such ground, for their respective losses, according to their several interests and estates therein; and the verdict of such jury, and the judgment of the said mayors court thereon, and the payment of the sum of money so awarded and adjudged, to the owner or owners thereof, or tender and refusal thereof, shall be conclusive and binding, against the said owner and owners, his and their respective heirs, executors, administrators and assigns, claiming any estate or interest of, in, or to the same ground; and it shall thereupon be lawful for the said mayor, aldermen and commonalty, to cause the same ground to be converted to, and used for the purposes aforesaid.

Sewers,
drains and
vaults.

And be it further enacted, That it shall be lawful for the said mayor, aldermen and commonalty to cause common sewers, drains and vaults to be made in any part of the said city, and to order and direct the pitching and paving the streets thereof, and the cutting into any drain or sewer, and the altering, amending, cleansing and scouring of any street, vault, sink or common sewer, within the same city; and to cause to be made estimates of the expence of conforming to such regulations, and a just and equitable assessment thereof among the owners or occupants of all the houses and lots intended to be benefited thereby, in proportion, as nearly as may be, to the advantages which each shall be deemed to acquire: And the said common council shall appoint five disinterested freeholders to make every such estimate and assessment, who, before they enter upon the execution of their trust, shall be duly sworn before the said mayor or recorder, to make the said estimate and assessment fairly and impartially, according to the best of their skill and judgment; and a certificate in writing of such estimate and assessment being returned to the said common council, and ratified by them, shall be binding and conclusive upon the owners and occupants of such lots so to be assessed respectively, and such owners or occupants shall also be respectively liable, upon demand, to pay to such person as shall be authorised by the said common council to receive the same, the sum at which such house or lot shall be so assessed to be applied towards the making, altering, mending, pitching, paving, cleansing and scouring such streets, and making and repairing such vaults, drains and sewers as aforesaid; and in default of such payment or any part thereof, it shall be lawful for the mayor, recorder and aldermen of the

same city, or any five of them, of whom the mayor or recorder always to be one, by warrant under their hands and seals, to levy the same, by distress and sale of the goods and chattels of such owner or occupant, refusing or neglecting to pay the same rendering the overplus, if any, after deducting the charges of such distress and sale to such owner or occupant, or his legal representatives. *Provided always,*

And be it further enacted, That nothing in this act contained shall affect any agreement between any landlord and tenant respecting the payment of any such charges, but they shall be answerable to each other in the same manner as if this act had never been made. *And further* that if any money so to be assessed shall be paid by any person, when by agreement or by law, the same ought to have been borne and paid by some other person, then it shall be lawful for the person paying the same, to sue for and recover the same, with interest and costs of suit, in any court having cognizance thereof, as so much money paid for the use of the person who ought to have paid the same; and the assessment aforesaid, with proof of payment shall be conclusive evidence in such suit.

Landlords
and ten-
ants.

And be it further enacted, That when the said mayor, aldermen and commonalty shall make a general regulation in any part of the said city for raising, reducing, levelling or fencing in any vacant lot or lots adjoining each other, it shall be lawful for the said mayor, aldermen and commonalty in case the same shall not be complied with, to cause an estimate of the whole expence of conforming to such regulation, with respect to each lot which the owner thereof shall refuse or neglect to put in the order thereby required to be made assessed and certified for that purpose, and sworn in manner aforesaid; and the same being approved by the said mayor, aldermen and commonalty, they shall cause the same to be advertised in two or more of the public news papers printed in the said city, for six months, thereby requiring the owners of such lots respectively, to pay the sum at which the said lots shall be assessed, to the chamberlain of the said city; and that if default shall be made in such payment, such lot will be sold at public auction, at a day and place therein to be specified, for the lowest term of years at which any person shall offer to take the same, in consideration of advancing the sum assessed on the same for the expence aforesaid: And if, notwithstanding such notice and demand, the owner or owners shall refuse or neglect to pay such assessment, with the charge of appraisement and advertisement then it shall be lawful for the said mayor, aldermen and commonalty to cause the said lot to be sold at public auction, for a term of years, for the purposes and in the manner expressed in the said advertisement, and to give a declaration of such sale to the purchaser thereof, under the common seal of the said city; and such purchaser his executors, administrators and assigns, shall by virtue thereof, and of this act, lawfully hold and enjoy the same, for his and their own proper use, against the owner or owners thereof, and all claiming under him or them, until his term therein shall be fully complete and ended; being at liberty to remove all the buildings and materials which he, or they shall erect or place thereon, but leaving the ground in sufficient fence, and with the street or streets fronting the same in the order required by the said regulations: *Provided always,* that if after defraying the actual expence of conforming any lot, so to be sold for a term of years, to the regulations aforesaid, and deducting all reasonable charges attending the same, a surplus of the purchase money shall remain in the hands of the chamberlain of the said city, the same shall forthwith be rendered to the owner or owners of such lot or lots respectively or his or their legal representatives.

Raising,
levelling
and fencing
lots;
assess-
ments.

Second
assess-
ment.

And be it further enacted, That if upon the completion of any such regulation as aforesaid, it shall appear to the mayor, aldermen and commonalty of the said city, that a greater sum of money hath been bona fide expended in making such regulation, than the sum estimated and collected as aforesaid, it shall then be lawful for the said mayor, aldermen and commonalty, to cause a further assessment equal to such excess to be made and collected in manner aforesaid; *and further* that in case the sum actually expended shall be less than the sum expressed in such estimate and collected as aforesaid, the surplus shall be forthwith returned to the persons from whom the same were collected or their legal representatives.

Assess-
ments to
be liens.

And be it further enacted, That the amount of every estimate and assessment to be made as aforesaid shall be and remain a lien on the lot or lots so estimated, from the time of the completion and return of such estimate in manner aforesaid, until paid or otherwise satisfied. And that it shall be lawful for the said mayor, aldermen and commonalty, instead of the remedy herein above provided, if they shall see fit, in case any owner or occupant of any lot within the said city shall neglect or refuse to conform his lot to such regulations as aforesaid, to conform the same to such regulations at their own expence, and to sue for and recover the amount of that expence from the owners of such lots or their legal representatives, with interest and costs in any court within this State, having cognizance thereof in an action on the case for so much money by them paid, laid out and expended for such owners; and the said estimate or assessment with proof of the amount and payment of the said expence shall be conclusive evidence for the plaintiffs in every such action; *and further*, that it shall be lawful for the said mayor, aldermen and commonalty, to sue for and recover in like manner all such sums of money, as they may have expended heretofore in consequence of any estimate or assessment made in the manner and for the purposes aforesaid or any of them.

Penalties
for viola-
tion of
by-laws.

And be it further enacted, That it shall be lawful for the said mayor, aldermen and commonalty to make bye laws, and inflict reasonable penalties to enforce the same, for regulating and keeping in repair the docks and slips within the said city, and to prevent the same and the river opposite thereto, from being in any manner obstructed; *provided* that such bye laws shall not contravene the constitution or any of the laws of this State.

By-laws
concerning
streets, etc.

And be it further enacted, That it shall be lawful for the common council of the said city, from time to time, to make such bye laws as they shall deem necessary to keep in repair the streets, highways and bridges within such parts of the said city as may remain unpaved, and to inflict reasonable penalties to enforce such bye laws.

Widening,
straighten-
ing and
laying out
streets.

And be it further enacted, That in all cases in which the said mayor, aldermen and commonalty shall deem it necessary to take any ground for the purpose of widening, straightening or laying out any street or streets within the said city, belonging to any person or persons whatsoever, who shall or may reside without this State or whose place of residence shall be unknown to them, it shall be lawful for the said mayor, aldermen and commonalty to give notice in the manner above mentioned, with respect to owners and proprietors, to the occupant or occupants of such ground, and also to cause the like notice to be published eight weeks successively in the news paper printed by the printer to this State and in one of the news papers printed in the city of New York, thereby requiring all the persons interested in such ground to appear before the said mayor, aldermen and commonalty either in person or by attorney

at a certain day to be inserted in every such notice, not less than nine weeks from the date thereof, to treat for the sale of the said ground; and in case the persons so interested shall not appear as aforesaid, or in case of disagreement between them and the said mayor aldermen and commonalty about the price of the said ground, it shall be lawful for the said mayor, aldermen and commonalty to proceed to ascertain the value of the said ground, and the damages that may arise to the persons so interested therein, in the manner prescribed by the thirteenth section of this act. *Provided always*, that it shall be sufficient in such case to serve a notice of the time and place when and where the jury are to meet for that purpose, on the occupant or occupants of such ground, and in case the same should be vacant to put up such notice in writing on some notorious part thereof in the day time, at least eight days previous to the time of such meeting.

And be it further enacted That after such value and damages shall have been ascertained in the manner aforesaid, the amount thereof shall be paid by the mayor, aldermen and commonalty of the said city, to the person or persons entitled thereto, with lawful interest on demand. City to pay damages.

And be it further enacted, That it shall not be lawful for any person to build or erect any dwelling house store stable or other out house within the following limits of the said city, to wit, beginning at the east end of Kilby-lane, and running thence through the middle of said lane to Cow-lane; thence through the middle of Cow-lane to Hudson street; thence along the south side of Hudson street to the west side of Washington street; thence along the west side of the last mentioned street to Nail street; then through Nail street to the west side of Lodge-street; then along the west side of Lodge street to Oak street; then along the south side of Oak street to the west side of Pearl street, and then along the west side of Pearl street to the north bounds of the city; then along the said north bounds to Hudson river; then down the said river to a point opposite to the east end of Kilby-lane, and from thence to the place of beginning, including both sides of the aforesaid streets, within the limits aforesaid, exceeding the following dimensions, that is to say, thirty feet in depth from the range of the street on which such dwelling house store, stable or other out house shall adjoin, twenty feet in height from the surface of the stone wall which encloses the cellar, which stone wall shall not exceed two feet above the surface of the street adjoining the said dwelling house, store stable or other out house to the upper part of the wall plate thereof; and the roof whereof shall not be of an elevation exceeding five inches on every foot, measured horizontally between the exterior points of the rafters thereof; except such dwelling house store, stable or other out house shall be made and constructed of stone, brick or timber faced with brick, with fire walls, rising at least twelve inches above the roof and covered with tile, tin or slate, or other safe material against fire. Restrictions on frame buildings in certain parts of city.

And be it further enacted, That it shall be lawful to build and erect stables and other out houses, in that part of the said city last before described of any materials: *Provided* that such stables shall not exceed eleven feet in height from the common surface of the earth to the top of the plates, and fourteen feet in the square, and that such out houses shall not exceed eight feet in height from the common surface of the earth to the top of the plates, and eight feet in the square: *Provided always* that all roofs of steeples, cupolas and spires of churches and other public buildings may be covered with boards and shingles, any thing in this act to the contrary notwithstanding. Other parts of city.

Penalties
for viola-
tion of
building
regulations

And be it further enacted, That if any dwelling house, store or other building shall be erected, constructed, covered or roofed contrary to this act, except as herein before excepted, the proprietor or proprietors thereof shall for every such offence, forfeit and pay the sum of one hundred dollars, and the further sum of twenty five dollars for every month such offence shall be and continue, and the workmen who shall build, construct, raise, erect or roof such dwelling house, store or other building contrary to this act, shall for every such offence forfeit and pay the sum of fifty dollars, to be recovered with costs of suit in any court of record within this State, by any person who shall sue or prosecute for the same to effect, the one half thereof to the person so prosecuting, and the other half, when recovered, to the chamberlain of the said city for the use of the poor thereof.

Markets.

And be it further enacted, That whenever there shall be more than one market erected within the said city, it shall be lawful for the common council of the said city, to grant an exclusive right, by contract or otherwise, to one or more persons to supply either of the said markets with every kind of meat; *provided always,* that such exclusive right shall not endure for more than one year by virtue of any one contract, which time shall commence within six months from the date of every such contract.

Cartmen."

And be it further enacted, That it shall be lawful for the common council of said city, from time to time, to prescribe the manner of licensing cartmen, and to regulate the cartmen and carts within the said city.

Overseers
of the poor

And be it further enacted, That it shall not be lawful for the overseers of the poor to make any allowance for more than eight days to any poor person whatsoever, for his or her support or maintenance, without having previously obtained an order for that purpose from the common council of the said city; and that it shall be lawful for the said common council, from time to time, to make, establish and ordain such rules and regulations relative to the poor of the said city, as they shall deem necessary and expedient.

Venders of
cakes and
fruits.

And be it further enacted, That it shall be lawful for the common council of the said city, to licence under their common seal, and during their pleasure, such and so many persons, as they shall judge to be proper, to carry about and vend all sorts of cakes and fruit within the said city; *subject nevertheless* to such regulations and duties as the said common council shall from time to time prescribe; *and further* that in case any person shall without such licence carry about and vend, any sort of cakes or fruit, (other than the product of his own garden or orchard) within the said city, he shall be deemed guilty of a misdemeanor, and on conviction thereof before the mayor or recorder and two aldermen of the said city, who are hereby empowered and required to try every such offender, shall for every offence be imprisoned in the common goal of the city and county of Albany, for a term not less than twenty four hours, nor more than six days.

Recovery
of penal-
ties.

And be it further enacted, That all penalties which have been or shall hereafter be created by any bye-law of the common council of the said city, shall be sued for and recovered by, and in the name of the chamberlain of the said city, for the use of the said city, with costs of suit, before any one of the aldermen, or any justice of the peace in and for the said city, in the same manner that debts to the value of twenty five dollars or under are now recoverable against non resident debtors; *provided always,* that there shall be no stay of execution after judgment rendered in any such suit, under any pretence whatsoever.

CHAP. 154.

AN ACT authorising grants of lands to Theophilus Anthony and Joseph Fish.

PASSED the 6th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the commissioners of the land office may, ^{Letters patent to Theophilus Anthony.} and hereby are directed to issue letters patent to Theophilus Anthony his heirs and assigns forever for the northern half of township number twenty two in Jessups Indian purchase containing twelve thousand acres of land with the usual allowance for highways and bounded as follows, to wit, beginning in the line of mile or marked trees from the landing at a beech tree marked number twenty two standing about ten chains southerly of a birch tree in the said line marked MLII and runs thence along the said line of mile or marked trees south thirty degrees east two hundred and sixty two chains and a half then north sixty degrees east four hundred and eighty chains then north thirty degrees west two hundred and sixty two chains and a half and then south sixty degrees west four hundred and eighty chains to the place of beginning, *provided* the said Theophilus Anthony shall produce to the said commissioners a receipt from the treasurer of this State that he the said Theophilus Anthony has paid into the treasury on account of the people of this State the sum of two thousand dollars in payment for the said land; *provided nevertheless*, that this grant is on this express condition that the said Theophilus Anthony give and execute good and sufficient deeds of conveyance to each and every person who were actual settlers on any part of said land and had made improvements thereon before the passing of this act which deed shall comprehend the land on which such improvements shall have been made as aforesaid and for such number of acres as such settler shall choose not exceeding two hundred acres, at the average value per acre that the said Anthony gives the State for the same which deed shall be executed within four years from the passing of this act.

And be it further enacted, That the surveyor general shall and he is hereby authorized and required to execute unto Joseph Fish his heirs and assigns forever a conveyance of all the right, title, interest, property, claim and demand of the people of this State, of, in and to the undivided half part of lot number thirty six being part of lot number two of the old patent in Pittstown, and is now vested in the people of this State by the attainder of Robert Lake, containing forty two acres and one half of land, *provided nevertheless*, that the said Joseph Fish his heirs or assigns shall first, and that on or before the first day of September next produce and deliver to the surveyor general a certificate from the treasurer of this State specifying he has received of the said Joseph Fish the sum of one hundred dollars for the same, *provided also*, that the conveyance to be given as aforesaid, shall not operate as a warranty from the people of this State for the land so to be conveyed. ^{Conveyance to Joseph Fish.}

CHAP. 155.

AN ACT concerning the proof of deeds and conveyances.

PASSED the 6th of April, 1801.

How acknowledgments taken.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That every deed, conveyance or writing relating to the title or property of any lands or real estate within this State, being duly acknowledged by the party or parties executing the same, or proved by one or more of the subscribing witnesses thereto, before one of the judges of the supreme court of the United States or before one of the justices of the supreme court of this State, or a master in chancery, or the first judge of any court of common pleas or before any other of the judges of the court of common pleas of the county where such lands or real estate are situated, or if the same be situated in the cities of New York, Albany or Hudson, before the mayor or recorder of the said cities respectively, and a certificate of such acknowledgment or proof being indorsed thereon, and signed by the person before whom the same was taken, shall and may be recorded in the office of the secretary of this State or of the clerk of the county in which such lands or real estate are situated: *Provided however* that no such acknowledgment shall be taken unless the officer taking the same shall know or have satisfactory evidence that the person making such acknowledgement is the person described in and who has executed such deed, conveyance or writing; and that no such proof shall be taken, unless the officer taking the same shall know the person making such proof or have satisfactory evidence that he is a subscribing witness to such deed, conveyance or writing and that such witness knew the person who executed the same, all of which shall be inserted in the said certificate of such acknowledgment or proof, and in case of the examination of witnesses it shall also be the duty of such officer to set forth in such certificate what witnesses were examined before him and the substance of the evidence by them given.

Married women.

And be it further enacted, That no estate of a feme covert residing in this State shall pass by her deed without a previous acknowledgment taken in manner aforesaid and made by her on a private examination apart from her husband, that she executed such deed freely without any fear or compulsion of her husband, which shall in like manner be contained in the certificate of such acknowledgment to be indorsed on such deed; but where any feme covert not residing in this State, shall join with her husband in any deed, or conveyance of or relating to any lands or real estate situated within this State, she shall thereby be barred of and from all claim of dower and all other right and title therein in like manner as if she were sole, and the acknowledgment or proof of such deed, conveyance or writing may be the same as if she were sole and shall entitle such deed, conveyance or writing to be recorded as aforesaid.

British subjects.

And be it further enacted, That all acknowledgments and proofs of any deeds, conveyances or writings made as aforesaid by British subjects actually residing within the kingdom of Great Britain or the dominions thereunto belonging, to any citizens of this State, of or concerning any lands or real estate situate within this State, taken or made, or hereafter to be taken or made, before the mayor of the city of London and duly certified under the seal of office of the mayoralty of the said city, or before any minister of the United States resident in Great

Britain, shall be of the like force and validity and entitle the same to be recorded, as if the same were taken before a judge of the supreme court of this State.

And be it further enacted, That every deed, conveyance or writing made and executed after the first day of February in the year of our Lord one thousand seven hundred and ninety nine, whereby the right or title to any lands or tenements situated in the several counties of Ontario, Steuben, Tioga, Herkimer, Oneida, Chenango and Otsego may be affected either in law or equity, after being acknowledged or proved aforesaid, shall be recorded, if the same be not already done in the clerks office in the counties in which such lands shall be situated in books to be provided by the clerks of the same counties respectively; and that every deed and conveyance made and executed after the said first day of February, whereby any of the said lands may be any way affected, in law or equity, shall be adjudged fraudulent and void, against any subsequent bona fide purchaser or mortgagee, for valuable consideration, unless the same be recorded as by this act is directed, before the recording the deed or conveyance under which such subsequent purchaser or mortgagee shall claim.

Conveyances of lands in certain counties.

And be it further enacted, That every deed, conveyance or writing of or concerning any lands or real estate within this State, which by virtue of this act shall be entitled to be recorded as aforesaid, shall be recorded in the order and as of the time when the same shall be delivered to the secretary, or any clerk for that purpose, and shall be considered as recorded from the time it was so delivered, and the said secretary or clerk shall make an entry on the margin of the record thereof, of the day, month and year and the time of the day when the same is so recorded, and endorse and sign a certificate on such deed, conveyance or writing of the particular time when and the book and page in which the same is so recorded, and that every deed conveyance or writing so acknowledged or proved whether the same be recorded or not or the record thereof, or a transcript of such record certified by the secretary of this State, or the clerk in whose office the same may be recorded or registered under the seal of the court of common pleas of the county whereof he is clerk may be read in evidence in any court of, this State without further proof thereof.

Order and manner of recording conveyances.

And be it further enacted, That it shall not be lawful for the said secretary or any clerk of any city or county in this State to record any deed, conveyance or writing above mentioned unless the same shall be acknowledged or proved as is directed by this act, and which acknowledgment or proof shall be recorded therewith.

Acknowledgment to be recorded.

And be it further enacted, That if either of the said judges or other officers within this State authorized to take the acknowledgment or proof of deeds, or the said secretary, or any clerk of any county, or any deputy of such secretary or clerk shall be guilty of any neglect, misdemeanor or fraudulent practice in the execution of the duties prescribed by this act, they and every of them shall in every such case be liable to pay treble damages with full costs of suit to any party injured thereby, to be recovered by action of debt or by information in any court of record in this State.

Penalty for misdemeanor by officer empowered to take acknowledgment.

And be it further enacted, That so much of the act entitled "An act for registering deeds and conveyances relating to the military bounty lands" passed the 8th day of January 1794 as provides for the acknowledgment or proof of deeds or conveyances in a manner different from the provision of this act, shall be and the same is hereby repealed, so far as respects conveyances hereafter to be made.—

Part of act repealed.

CHAP. 156.

AN ACT concerning mortgages.

PASSED the 6th of April, 1801.

Records of
mortgages
to be kept.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That the clerks of the respective counties in this State, from time to time shall provide fit and convenient books, for the registering of all mortgages, of any lands, tenements or hereditaments situated within their respective counties; in which register shall be entered the names of the mortgagors and mortgagees, the dates of the respective mortgages, the mortgage money, the time or times when payable, the description and boundaries of the land, tenements or hereditaments mortgaged, the times when such mortgages are registered, and a minute of the certificate of the proof or acknowledgment thereof herein after mentioned, to which register all persons whomsoever, at proper seasons, may have recourse. And that if any clerk shall neglect or refuse to do the duty required of him by this act, he shall answer to the party injured, all damages which shall happen by reason of such neglect or refusal.—

Acknowledgments;
priority of
liens.

And be it further enacted, That every mortgage being proved or acknowledged, as deeds and conveyances are directed to be proved and acknowledged by the act entitled "An act concerning the proof of deeds and conveyances," and such proof or acknowledgment certified in like manner, may be registered as aforesaid, in the city or county in which the lands, tenements or hereditaments so mortgaged are situated; and in case of several mortgages of the same premises, or any part thereof the mortgage or mortgages which shall be first registered as aforesaid, shall have preference in all courts of law and equity according to the times of the registry of such mortgages respectively; *provided* the mortgage or mortgages so to be preferred be made bona fide and upon good and valuable consideration. *And further,* that no mortgage nor any deed, conveyance or writing in the nature of a mortgage shall defeat or prejudice the title or interest of any bona fide purchaser of any lands, tenements or hereditaments, unless the same shall have been duly registered as aforesaid.—

Deeds construed as
mortgages.

And be it further enacted, That every deed conveying a real estate, which by any other instrument or writing shall appear to have been intended only as a security, in the nature of a mortgage, though it be an absolute conveyance in terms, shall be considered as a mortgage, and be deemed and adjudged to be liable to be registered as other mortgages are by virtue of this act; and that the person or persons for whose benefit such deed shall be made, shall not have the advantages, given by this act to mortgages, unless every instrument and writing operating as a defeazance of the same, or explanatory of its being designed to have the effect only of a mortgage or conditional deed, be also therewith registered in substance, as in case of a mortgage.

Discharge
of record.

And be it further enacted, That whenever any mortgage so registered, shall be redeemed or discharged, and a certificate thereof signed by the mortgagee or mortgagees, his or their executors, administrators or assigns, in the presence of two or more witnesses, and proved or acknowledged in the same manner as the execution of such mortgage is above directed to be proved or acknowledged, and such proof or acknowledgment also certified in like manner, be produced to the clerk of the city or county

in which the same is registered, such clerk shall enter in the said book or register of mortgages, a minute of such discharge and certificate, which minute shall be deemed and taken to be a full and absolute bar to the first entry of such mortgage or mortgages; and it shall not be necessary for the said clerk on entering such minute or on registering any mortgage as aforesaid to record or register at length the certificate of the proof or acknowledgment thereof.—

And be it further enacted, That no sale of any lands, tenements or hereditaments, made or to be made in due form of law, by any mortgagee or others thereunto authorised by special power for that purpose, from any person entitled to the equity of redemption therein, shall be defeated to the prejudice of any bona fide purchaser thereof in favor or for the benefit of any person claiming such redemption in equity: *provided* that nothing herein contained shall be construed to prejudice any other mortgagee of the same premises or any part thereof, whose title accrued prior to such sale, or any creditor to whom the mortgaged premises or any part thereof were before bound by any judgment at law or decree in equity; *and provided also* that nothing herein contained, shall operate to secure any such purchaser under any power executed since the nineteenth day of March in the year one thousand seven hundred and seventy four or hereafter to be executed for the purpose of such sale, unless the party executing the same be of the age of at least twenty five years.—

Sale of premises by mortgagee, effect of.

And be it further enacted, That all such powers to mortgagees, made or to be made, authorising sales in fee, shall be acknowledged or proved, and recorded, together with the certificate of such proof or acknowledgment, as deeds and conveyances usually are, before the conveyances for the sale be executed; *and further*, that every such sale shall be at public auction or vendue; and public notice shall be given thereof by advertisements, one copy whereof to be inserted and continued at least once a week for six months previous to such sale, in one of the public news-papers printed in this State, and another copy thereof to be fixed upon the outward door of the court house of the city or county, in which the mortgaged premises or the greater part of them lie.

Powers to mortgage; sales at auction.

CHAP. 157.

AN ACT further to amend the act entitled "An act making further provision for improving the navigation of the Hudsons river between the city of Albany and the village of Waterford.

PASSED the 6th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That David Gelston, Philip Ten Eyck and John Bordman appointed managers for superintending, managing and drawing the lottery directed by the act entitled "An act making further provision for improving the navigation of the Hudson river between the city of Albany and the village of Waterford are hereby authorized and directed to cause the additional sum of ten thousand dollars to be raised by the said lottery.

Managers of lottery for improvement of Hudson river.

And be it further enacted, That as soon as the said lottery shall be drawn the said managers after deducting therefrom the proportionable expences for drawing and conducting the same to be audited and allowed

Disposition of proceeds.

by the comptroller of this State shall pay the neat proceeds of the said sum of ten thousand dollars to Cornelius Lansing, Joseph S. Mabbitt, David Henry, Charles Selden, Jacobus Van Schoonhoven, Hezekiah Ketchum and Joseph Alexander appointed commissioners to improve the navigation of Hudson's river between the villages of Lansingburgh and Troy to be by them applied in improving the navigation of the said river in such manner as they or a major part of them may deem proper.—

Account
to be rendered.

And be it further enacted, That it shall be the duty of the said commissioners or a major part of them annually to render a true and accurate account of all monies by them received and expended to the comptroller of this State.—

CHAP. 158.

AN ACT, concerning the inspection of sole leather.

PASSED the 6th of April, 1801.

Inspectors
of sole
leather
to be appointed.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the person administering the government of this State by and with the advice and consent of the council of appointment shall from time to time, and as often, as vacancies occur, appoint inspectors of sole leather, for the cities of New York, Albany, Schenectady, and Hudson respectively, to wit; two for the said city of New York, and one for each of the said cities of Albany Schenectady and Hudson; and each inspector, hereafter to be appointed shall before he proceeds to execute the duties, enjoined upon him by this act, take and subscribe before the mayor, or recorder, of the city, for which such inspector may be appointed, the following oath, to wit; I do solemnly swear, that I will well, faithfully, and impartially, according to the best of my skill, and understanding, execute, do, and perform the office, and duty of an inspector, and examiner of sole leather; and will not directly, or indirectly, by myself, or by any person, or persons under me, or for my benefit, or advantage, buy or sell, any sole leather, during the time, that I shall continue an inspector of the same, (except for the use of my own family,) according to the true, intent, and meaning of an act, entitled, "An act concerning the inspection of sole leather;" so help me God.

Sole leather
not to be
sold unless
inspected,
sealed and
weighed.

And be it further enacted, That no sole leather, shall be sold, or used for any purpose whatsoever, within either of the said cities, whether such sole leather, be manufactured within the same, or imported, or brought therein from any other place whatsoever, except sole leather, which shall have been inspected, in one other of the said cities, until the same shall have been inspected, sealed, and weighed by one of the inspectors, for that purpose, appointed, under the penalty of five dollars, for every such offence, to be sued for, and recovered by action of debt, with costs of suit by any person, who will sue for the same, in any court having cognizance thereof, the one moiety thereof, when recovered, to be paid to the chamberlain of the city, in which the offense was committed, for the use of the poor thereof, and the other moiety to the use, of the person so suing.

Fees.

And be it further, enacted, That there shall be paid to the inspector, for inspecting, sealing, and weighing of every side of sole leather, the sum of four cents, the one half to be paid by the seller, and the other half by the purchaser.

And be it further enacted, That each inspector, shall provide himself with proper seals, for the purpose aforesaid, and impress on every side of sole leather, which shall be deemed dry, good, and merchantable, his own name, and the name of the city, for which he is an inspector, at full length, and also the weight thereof; and if any person shall presume to counterfeit, such mark, or marks, to be made by such inspector by making any impression or mark, on any sole leather, such person so offending, shall forfeit and pay, for every such offence, the sum of twenty five dollars, to be sued for, recovered, and applied, in manner aforesaid. *Provided nevertheless,* that all sole leather, which upon inspection, as aforesaid, shall be found not to be dry, good, and merchantable, and which as such, shall not be stamped, in manner herein before directed, may be used for any other purposes, except being worked into shoes, boots, or buckets. *And provided further* that all such sole leather, which shall not, on such inspection as aforesaid be deemed good, and merchantable, by the inspector, shall be by him, marked with the word BAD, and may then be used for any other purpose, except being worked into, shoes, boots, or buckets; and every such inspector, is hereby required, and directed, to keep proper instruments, for the purpose of marking such unmerchantable leather, accordingly; and if any person shall presume to work up into shoes, boots, or buckets, any sole leather, before the same shall have been inspected as aforesaid, or any sole leather, which shall be marked with the word, BAD, as aforesaid, such person so offending, shall forfeit and pay, for every such offence, the sum of twenty five dollars, to be sued for, recovered, and applied, in the manner before directed.

Seals to be provided by inspectors; counterfeiting.

Leather marked bad.

And be it further enacted, That it shall and may be lawful for the person who now is, or hereafter, shall be appointed inspector for the city of Albany, and it is hereby made his duty upon the application of any of the tanners in the village of Bath in the county of Rensselaer or the towns of Watervliet and Bethlehem in the county of Albany, to inspect in the said village and towns respectively, all such sole leather as they may offer for inspection, for the same fees as are paid in the city of Albany.

Inspector in Albany.

CHAP. 159.

AN ACT recommending a convention for the purposes therein mentioned.

PASSED the 6th of April, 1801.

WHEREAS, certain articles of the constitution are of doubtful construction, or have been found inconvenient in practice; therefore, Preamble.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful, and it is hereby proposed to the citizens of this State, to elect by ballot delegates to meet in convention for the purpose of considering the parts of the constitution of this State respecting the number of senators and members of assembly in this State, and with power to reduce and limit the number of them as the said convention may deem proper; and also for the purpose of considering and determining the true construction of the twenty third article of the constitution of this State relative to the right of nomination to office; but with no other power or authority whatsoever. Delegates to constitutional convention

Apportionment of delegates; elections.

And be it further enacted, That the number of delegates to be chosen shall be the same as the number of members of assembly from the respective cities and counties of this State; and that all free male citizens of this State of the age of twenty one years and upwards shall be admitted to vote for such delegates, and that any person of that description shall be eligible, and that the election for such delegates shall be held at such places as the inspectors herein after mentioned shall for that purpose notify, and on the last Tuesday of August next, and shall continue three days; and that the inspectors who shall inspect the next election for members of assembly, shall also be inspectors of election for delegates; and that the inspectors at each respective place of election shall provide, a proper box to receive the ballots for delegates, and appoint two clerks each of whom shall keep a poll list of the electors for delegates; and that at the close of the poll the ballots for delegates shall be canvassed and disposed of and the names of the persons voted for as delegates, and the number of votes given for each person respectively, certified in the manner as is by law directed respecting votes for members of assembly; and that the clerks of the respective counties in this State shall enter of record the statements or certificates from the inspectors respecting the votes for delegates in the same manner as those respecting members of assembly, shall calculate and ascertain the aggregate amount, or whole number of votes given for the respective candidates or persons voted for as delegates in such county, and shall thereupon determine conformably to the statements or certificates from the inspectors upon the person or persons duly elected by the greatest number of votes, as delegates for such county, and shall enter such determination of record in his office, and cause to be delivered to each person so found to be elected as delegate, a certificate of such election within fifteen days, and shall also transmit a copy of such determination to the office of the secretary of this State, there to be filed and remain of record. And that the inspectors and clerks of the said election, and the clerks of the respective counties shall for mal and corrupt conduct in the premises, be respectively liable to the penalties prescribed in similar cases in the act entitled, "An act for regulating elections"; and the said officers shall be paid in like manner as they are now directed to be paid by law for the services performed under this act.

Duties of election officers.

And be it further enacted, That the inspectors of the said election or the major part of them shall give the like notice of the time and place where such election for delegates is to be held, as is directed by law to be given of the time and place of choosing members of assembly, and that the inspectors and clerks of the said election shall severally take the oath directed to be taken by the inspectors and clerks of election by the act entitled, "An act for regulating elections," which oaths either of the said inspectors is hereby authorized to administer.

Manner of conducting election.

And be it further enacted, That the inspectors shall in all respects conduct the said election as near as may be in the manner prescribed by the act before mentioned for the election of members of assembly, except that none of the oaths therein mentioned shall be administered to any elector.

Qualifications of electors; oath.

And be it further enacted, That no person shall vote out of the town or ward in which he shall then actually reside, and further that when any person shall offer his ballot, the inspector shall if thereunto required by any person qualified to vote at said election, or either of them may of his own accord tender to such person the following oath, to wit; "I do solemnly swear and declare in the presence of Almighty God, that I will bear true faith and allegiance to the State of New

York, that I am a free citizen of the State of New York, that I am not under the age of twenty one years, that I am now an actual resident of the town or ward, (naming the town or ward in which the election is held,) and that I have not before voted at this election," and in case any person shall refuse to take such oath when thus tendered to him, he shall not be allowed to vote.

And be it further enacted, That the delegates so to be chosen shall meet in convention at the court house in the city of Albany on the second Tuesday of October next; and that the said delegates and the necessary attending officers of the convention shall be allowed the like compensation for their services as the members and officers of the legislature are allowed by law, and shall be paid in the same manner.

And be it further enacted, That it shall be the duty of the clerk of the assembly immediately on the opening of the said convention to furnish them with such papers and records which may be in his possession as the said convention may deem necessary.

And be it further enacted, That the proceedings of the said convention shall be filed in the office of the secretary of this State; and the determination of the said convention respecting the several matters herein before mentioned shall be entered of record in one of the books of record in the same office, and such determination shall thereupon become and be considered as part of the constitution of this State.

CHAP. 160.

AN ACT to vest certain powers in the freeholders and inhabitants of the village of Waterford.

PASSED the 6th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That it shall be lawful for the freeholders and inhabitants qualified to vote at town meetings and resident within that part of the town of Halfmoon called Waterford and comprehended within the following limits, viz beginning at a point of land commonly called Halfmoon point which is formed by the junction of the northernmost branch of the Mohawk river with Hudson's river and runs thence up and along the waters of Hudson's river to the northeast corner of the lands lately belonging to Hendrick Vanderwerkin deceased thence westerly along the north bounds of the lands aforesaid to lands belonging to Barent Ten Eyck and others thence along the same to the south side of Ballston street thence with the same line continued to the northernmost branch of the Mohawk river aforesaid thence down the waters of the said river to the place of beginning to assemble on the second Tuesday in May in every year at such place and at such time of the day as the trustees or the major part of them shall by public advertisement appoint and under the direction of the said trustees or such of them as shall be present who are hereby made inspectors of such election then and there by a majority of voices to elect seven discreet inhabitants being freeholdere to be trustees as aforesaid who shall continue in office until the second Tuesday in the month of May in the next ensuing year and until others shall be chosen in their places.

And be it further enacted That the said trustees hereby appointed and their successors are hereby enabled to take grants and conveyances of any lands and tenements being within the limits of Waterford aforesaid

Meeting of convention; officers.

Papers and records.

Proceedings to be filed in secretary's office.

Waterford, village of, incorporated.

Powers of trustees.

as herein described and to hold the same to them and their successors for ever in trust to and for the common use and benefit of the freeholders and inhabitants aforesaid.

Regulations concerning lands, streets, fires, etc.

And be it further enacted That the said freeholders and inhabitants at their annual meetings to be held as aforesaid and at such other times in the year as the said trustees or a majority of them may think necessary to advertise for the purpose are hereby authorised from time to time to make and establish such prudential rules and regulations as a majority of such freeholders and inhabitants so assembled and having a right to vote shall judge necessary and convenient for the better improving of their common lands and for ascertaining and directing the use and management thereof and also to ordain and establish such prudential rules and regulations relative to the cleansing and keeping in order and repair the common streets and highways in Waterford aforesaid and removing nuisances therefrom and also to make and ordain rules and regulations proper to compel the housekeepers in Waterford aforesaid to furnish themselves with a sufficient number of fire buckets and with necessary tools and implements for extinguishing of fires and to impose such penalties on the offenders against such rules and regulations or any of them as the majority of such freeholders and inhabitants so assembled shall from time to time deem proper not exceeding five dollars for any one offence to be recovered by the said trustees in their own names with costs of suit for the use of the said freeholders and inhabitants by action of debt before any justice of the peace residing in the county of Saratoga.

Village clerk.

And be it further enacted That the said trustees and their successors may from time to time appoint one fit person to be a common clerk for the said freeholders and inhabitants whose duty it shall be to record all rules and regulations made by the said freeholders and inhabitants at their meetings as aforesaid in a proper book to be by him provided for such purposes and also to do all such things as the said trustees or a majority of them shall lawfully from time to time by writing under their hands direct.

Firemen.

And be it further enacted That it shall be lawful for the said trustees or the major part of them and they are hereby required to appoint or continue a sufficient number of men willing to accept not exceeding fifteen in number out of the inhabitants residing in Waterford aforesaid to have the care management working and use of the fire engine or engines belonging or which may belong to the said freeholders and inhabitants and also the tools and instruments for extinguishing fires and the said trustees or the major part of them are hereby authorised to remove all or any of the said firemen when and as often as they shall think fit and others in their stead to appoint and also to make establish and ordain such rules and regulations for the government of such firemen as to them shall appear necessary and proper.

CHAP. 161.

AN ACT for appointing a place for erecting the court house and gaol in the county of Oneida.

PASSED the 6th of April, 1801.

Commission to designate

I. *Be it enacted, by the People of the State of New York represented in Senate and Assembly,* That Thomas Jenkins of Hudson, John Thomp-

son of Stillwater, Dirck Lane of Troy, and Hezekiah L. Hosmer of Hudson, shall be and hereby are appointed commissioners for designating the place for a court house and gaol for the county of Oneida, and for that purpose the said commissioners shall as soon as may be after the first day of May next repair to the said county, and after exploring the same, ascertain* and designate a fit and proper place therein for erecting said building, having respect or reference to a future division of said county; and if, in the opinion of said commissioners or any two of them, the building erected for a gaol in the town of Rome by individuals of the same county shall be at a proper place and duly construed* for the purpose aforesaid, then and in that case the supervisors of said county shall audit the accounts of such individuals for erecting said gaol, and allow such just sum therefor, as might with reasonable economy have been necessarily expended upon the same building, and thereupon draw an order, or orders in favor of such individuals or their agents upon the treasurer of the same county, who shall out of the monies raised for that purpose pay the amount thereof, and if the said commissioners or any two of them shall agree and designate any other place than that at which the said building for a gaol is so erected as a fit and proper place for such court house and gaol and file a certificate of such determination with the clerk of said county, then and in that case it shall and may be lawful for the said supervisors, and they are hereby required to appoint one or more commissioners to erect a gaol for said county at the place so designated, to be constructed upon such plan and in such manner as said supervisors shall prescribe; and the said supervisors shall thereupon audit the accounts of such commissioners in erecting said gaol, and draw their order for the amount on the treasurer of said county, who shall answer the same out of the monies raised for erecting a gaol in the same county. *Provided always*, that in case the commissioners above named, or any three of them shall not be able to agree upon a place for said court house and gaol, it shall then be their duty to nominate an additional commissioner to associate with them in discharging the said trust; and the determination of any three of such commissioners shall be conclusive in the premises: *Provided further* that it shall not be necessary for such additional commissioner to repair to and explore the said county; and any three of said commissioners in case of the nonattendance of the other on due notice being given for that purpose, shall be competent to discharge said trust; and the concurrence of any two of such three commissioners shall be conclusive in the premises.

II. *And be it further enacted* That the building erected or to be erected for that purpose at the place which shall be designated as aforesaid, shall be the gaol of the said county of Oneida; and as soon as the same building shall in the opinion of the sheriff of said county be finished in such manner as to confine his prisoners, it shall and may be lawful for such sheriff to remove his prisoners in his county either upon civil or criminal process to such gaol, and confine them therein, and such removal shall not be deemed an escape in such sheriff.

III. *And be it further enacted*, That the said county of Oneida, shall allow and pay each of the said commissioners so appointed to designate the scite* for said court house and gaol, at and after the rate of five dollars each per day, for every day they shall be employed in executing the trust enjoined on them by this act, which allowance shall be levied and paid as part of the contingent charges of said county, and the treas-

site for
court-
house and
jail in
Oneida
county.

Removal
prisoners

Compensation of
commissioners.

* So in original.

urer thereof is hereby required and directed to pay the same out of any monies in the treasury, an account of which he shall exhibit to the board of supervisors of said county at their next meeting there after.

In case site at Rome not selected.

IV. *And be it further enacted*, That if a different place than that at which the said building is already erected for a gaol in the town of Rome, shall be designated by said commissioners or a majority of them as aforesaid, then and in that case the supervisors of said county shall audit the accounts of the said individuals residing in said county of Oneida, who have erected said building upon principles above in that behalf prescribed, and the amount thereupon allowed, shall cause to be raised, levied, collected and paid as part of the contingent charges of said county.

Courts, where to be held.

V. *And be it further enacted*, That it shall and may be lawful for the courts of common pleas and general sessions of the peace in and for said county, as soon as said gaol shall be finished, and the prisoners of the same county removed to and confined therein, to adjourn the same courts respectively to some convenient building contiguous to the said gaol, and there to hold the same, and no action or prosecution depending in the same courts, shall be abated, discontinued, or in any manner prejudiced in law by such adjournment.

CHAP. 162.

AN ACT for raising a further sum of money for completing the gaol in the county of Ontario.

PASSED the 7th of April, 1801.

Tax levy for completing jail.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the supervisors of the county of Ontario be and they are hereby impowered and directed, to raise and levy, on the freeholders, and inhabitants of said county, a sum not exceeding three thousand eight hundred and forty five dollars, twelve cents, with the additional sum of five cents on each dollar, for collecting the same, and one cent on each dollar, for treasurers fees, to be by said supervisors applied to the purpose of paying the balance due for building the new gaol in Canandargua in said county, which said sum shall be raised levied and collected in the same manner as the other necessary and contingent charges of the said county are raised levied and collected.—

CHAP. 163.

AN ACT for dividing the counties of this State into towns.

PASSED the 7th of April, 1801.

Suffolk county; town of Southold.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That all that part of the county of Suffolk now called and known by the name of Southhold, lying to the eastward of a line beginning at the sound, and running thence southerly to the bay separating Southampton and Southold, and which is the eastern boundary or side of a farm, now or late in the tenure and occupation of

William Albertson, and is the reputed line of division between the parishes of Ocqueboughe and Mattetuck, and including Ram-island, Fisher's-island, Plumb-island, Robin's-island, and the Gull-islands, shall be and continue a town by the name of Southhold.

And that all that part of the said county of Suffolk, now called and known by the name of River-head, bounded easterly by Southhold, westerly by Brookhaven, southerly by Peaconock river, and northerly by the sound, shall be and continue a town by the name of River-head. Riverhead.

And that all that part of the said county of Suffolk, now called East-Hampton, including Montaack and the Isle of Wight, now called Gardiners island, shall be and continue a town by the name of East-Hampton. Easthampton.

And that all that part of the said county of Suffolk, now called and known by the name of South-Hampton, including Bridge Hampton, heretofore called Saggaboneck and Mecoxe, shall be and continue a town by the name of South-Hampton.— Southampton.

And that all that island called Shelter-island, in the county of Suffolk, shall be and continue a town by the name of Shelter-island. Shelter Island.

And that all that part of the said county of Suffolk, called Huntington, including Eaton's-neck and Crab-meadow, shall be and continue a town by the name of Huntington. Huntington.

And that all that part of the said county of Suffolk, bounded southerly by the Atlantic-ocean, westerly by Huntington, northerly by Smith-Town and Winne-Commick, and easterly by the east bounds of the lands formerly belonging to William Nicoll, near Blue-point; excepting nevertheless all the beach and bay which is included in the patent of Brookhaven, and belongs to the town of Brookhaven, shall be and continue a town by the name of Islip. Islip.

And that all that part of the said county of Suffolk, bounded southerly by Islip, westerly by Huntington, northerly by the sound, and easterly by the patent of Brookhaven, including Winne-Commick shall be and continue a town by the name of Smith-Town. Smithtown.

And that all that part of the said county of Suffolk, bounded westerly by Smith-Town and Islip, northerly by the sound, easterly by River-head and South-Hampton, and southerly by the Atlantic ocean, shall be and continue a town by the name of Brookhaven. Brookhaven.

And that all that part of Queen's county, now called and known by the name of Oysterbay, including Lloyd's-Neck or Queen's Village, and Hog-island, and extending on the south from the southeast point of Oysterbay meadows, south three degrees west to the Atlantic ocean shall be and continue a town by the name of Oysterbay. Queens county; Oysterbay.

And that all that part of Queen's county, bounded easterly by Oysterbay, southerly by the Atlantic ocean, westerly by Jamaica, and northerly by the county road leading from Jamaica nearly through the middle of the great plains, commonly called Hempstead-Plains, to the east part thereof, including the lands called the gore, between the patent of Hempstead and the patent of Oysterbay, shall be and continue a town by the name of Hempstead, except a small gore of land on which Stephen Clement resides, lying on the north side of, and adjoining to the highway that leads from Jamaica to Hempstead plains, and bounded on the west by the town of Jamaica, and on the north by Flushing, shall be and the same is hereby annexed to, and shall hereafter be a part of the town of Flushing for every purpose whatever. Hempstead

And that all that part of Queen's county, bounded easterly by Oysterbay, southerly by Hempstead, westerly by Flushing and northerly by the sound, shall be and continue a town by the name of North-Hempstead. North Hempstead

- Flushing.** And that all that part of Queen's county aforesaid, now called and known by the name of Flushing, shall be and continue a town by the name of Flushing.—
- Jamaica.** And that all that part of Queen's county aforesaid, now called and known by the name of Jamaica, shall be and continue a town by the name of Jamaica.—
- Newtown.** And that all that part of Queen's county aforesaid, now called and known by the name of Newtown, including all the islands in the sound opposite the same, and comprehended in Queens county, shall be and continue a town by the name of Newtown.
- Kings county; Brooklyn.** And that all that part of King's county, now called and known by the name of Brooklyn, shall be and continue a town by the name of Brooklyn.
- Bushwick.** And that all that part of King's county aforesaid, now called and known by the name of Bushwick, shall be and continue a town by the name of Bushwick.
- Flatlands.** And that all that part of King's county aforesaid, now called and known by the name of Flatlands or Amesford, shall be and continue a town by the name of Flatlands.
- Flatbush.** And that all that part of King's county aforesaid, now called and known by the name of Flatbush, including the tract of land called New-lots, shall be and continue a town by the name of Flatbush.—
- Gravesend.** And that all that part of King's county aforesaid, now called and known by the name of Gravesend, including Coney-island, and all the islands south of the said town, shall be and continue a town by the name of Gravesend.—
- New Utrecht.** And that all that part of King's county aforesaid, now called and known by the name of New-Utrecht, shall be and continue a town by the name of New-Utrecht.
- Richmond county; Castleton.** And that all that part of the county of Richmond, bounded northerly by Kill-Van-Cull, easterly by Hudsons river, southerly by the road leading from Van Duerson's ferry, southward of the watering place to Richmond town, and westerly by a line beginning at the mouth of Dongan's mill-creek, and running from thence along the line of the manor of Castle-town to the road at the rear of the patent of Corsen and company, thence along the northerly side of the said road, westerly to the road leading to Haughwout's mill, and then southerly along the westerly side of the last mentioned road, as it runs along by Richard Conner's, to the tavern now or late called the Rose and Crown, on the said road leading to Richmond town, shall be and continue a town by the name of Castle town.
- Southfield.** And that all that part of the said county of Richmond, bounded northerly by the north side of said road leading from Van Duerson's ferry to Richmond-town and the Fresh-kill, easterly by Hudson's river southerly by the bay, and westerly by a line beginning on the Fresh kill at the northwest corner of the land and meadow late of James Egberts, and running from thence southerly along the same, to Egberts lane, and then along the same lane to the road called the new-road, and then along the same new road westerly to the land now or late belonging to Henry Perine, and thence southerly along the easterly bounds thereof to the bay, shall be and continue a town by the name of Southfield.
- Westfield.** And that all that part of the said county of Richmond, bounded northerly by the Fresh kill, easterly by Southfield, southerly by the bay, and westerly by the sound, shall be and continue a town by the name of Westfield.

And that all the residue of the said county of Richmond, shall be and **Northfield.**
 continue a town by the name of Northfield.

And that all that part of the county of Westchester, bounded easterly **Westches-**
 by the sound, and the land granted to Thomas Pell, called the manor **ter county;**
 of Pelham, southerly by the sound, westerly by the county of New **Westches-**
 York, and northerly by the north bounds of the manor of Fordham, **ter.**
 and the north bounds of the land called the Borough-town of West-
 chester, including the islands in the sound lying south thereof, and in
 the county of Westchester, shall be and continue a town by the name of
 Westchester.

And that all that part of the county of Westchester, bounded easterly **Yonkers.**
 by Bronx-river, southerly by the town of Westchester, westerly by the
 county of New York and the State of New-Jersey, and northerly by the
 north bounds of a tract of land called the Yonkers, and the same con-
 tinued west to the State of New Jersey, shall be and continue a town
 by the name of Yonkers.—

And that all that part of the county of Westchester, bounded easterly **Green-**
 by Bronx-river, southerly by Yonkers, westerly by the west bounds of **burgh**
 the county, and northerly by a line beginning on the east side of Hud-
 son's river, at the southwest corner of the land lately conveyed by the
 commissioners of forfeitures for the southern district to Gerard G.
 Beeckman, jun. and running from thence along the southerly and east-
 erly bounds thereof to the farm now or late belonging to William David,
 and then along the southerly and easterly bounds thereof to the road
 leading to the White-Plains, and then easterly along the same road to
 Bronx-river, shall be and continue a town by the name of Greenburgh.

And that all that part of the said county of Westchester, bounded **Mt. Pleas-**
 southerly by Greenburgh, westerly by the middle of Hudson's river, and **ant.**
 northerly and easterly by the north and east bounds of the manor of
 Philip'sburgh, shall be and continue a town by the name of Mount-
 Pleasant.

And that all that part of the said county of Westchester, bounded **Eastches-**
 southerly by the town of Westchester, westerly by Bronx-river, north- **ter.**
 erly by the manor of Scarsdale, and easterly by a brook that runs
 southerly into Eastchester creek, shall be and continue a town by the
 name of Eastchester.

And that all that part of the said county of Westchester, called and **Pelham.**
 known by the name of the manor of Pelham, bounded southerly and
 easterly by the sound, northerly by the north bounds of the manor of
 Pelham, including the islands called the New-City-island, Hart-Island
 and Appelby's island, and westerly by the town of Eastchester, shall be
 and continue a town by the name of Pelham.

And that all that part of the said county of Westchester, called and **New**
 known by the name of New-Rochelle, bounded southerly by the town **Rochelle.**
 of Pelham, easterly by the sound, northerly by Mamaroneck and the
 manor of Scarsdale, and westerly by the manor of Scarsdale and East-
 chester, including the island called Rodman's island, shall be and con-
 tinue a town by the name of New-Rochelle.—

And that all that part of the said county of Westchester, bounded **Scarsdale.**
 westerly by Bronx-river, southerly by the town of Eastchester and New-
 Rochelle, easterly by the east bounds of the tract of land called the
 manor of Scarsdale, and northerly by the north bounds of the said
 manor of Scarsdale, shall be and continue a town by the name of
 Scarsdale.

And that all that part of the said county of Westchester, bounded **Mama-**
 southerly by New-Rochelle, easterly by the sound, northerly by Mama- **neck.**

roneck-river, and westerly by the town of Scarsdale, shall be and continue a town by the name of Mamaroneck.

White
Plains.

And that all that part of the said county of Westchester, bounded easterly by Mamaroneck-river, northerly by North-Castle, westerly by Bronx-river, and southerly by the town of Scarsdale, shall be, and continue a town by the name of White-Plains.

Harrison.

And that all that part of the said county of Westchester, called and known by the name of Harrison's purchase, shall be and continue a town by the name of Harrison.

Rye

And that all that part of the said county of Westchester, bounded southerly by the sound, easterly by Connecticut, and westerly by the town of Harrison and Mamaroneck-river, including Captain's island, and all the islands in the sound lying south of the said bounds, shall be and continue a town by the name of Rye.

North
Castle.

And that all that part of the said county of Westchester, bounded southerly by the town of White-Plains, the town of Harrison and the State of Connecticut, easterly by Connecticut and Poundridge, westerly by the Bronx-river, and northerly by the town of Bedford and a line drawn from the southwest corner of the town of Bedford to the head of Bronx-river on the eastern line of Mount-Pleasant, shall be and continue a town by the name of North-Castle.

New
Castle.

And that all that part of the said county of Westchester, bounded southerly by North Castle, westerly by Mount-Pleasant, northerly by the manor of Cortlandt, and easterly by the town of Bedford, shall be and continue a town by the name of New-Castle.—

Bedford.

And that all that part of the said county of Westchester, formerly called and known by the name of Bedford, shall be and continue a town by the name of Bedford.

Pound-
ridge.

And that all that part of the said county of Westchester, bounded southerly by the State of Connecticut, easterly and northerly by Salem, and westerly by Bedford & Mahanus-river, shall be and continue a town by the name of Pound-ridge.

Salem.

And that all that part of the said county of Westchester, bounded northerly by a line beginning at a monument in the line between this State and Connecticut, east of the north long-pond, and running westerly by the north side of the said pond and the south bounds of the land now or late belonging to Ezekiel Hawley, until it comes to the road leading over the mountain, and then crossing the same road and running northerly along the west side of the same road to the land now or late belonging to Ezekiel Hawley, and then westerly along the same to the west line of the oblong, then northerly along the said oblong line, until it comes to the south line of the north lot number ten of the manor of Cortlandt, and then westerly along the south bounds of the said lot number ten, and the south bounds of the north lots number nine and eight to Croton river, and then down the said river to Bedford, easterly and southerly by Connecticut, Pound-ridge and Bedford, and westerly by Poundridge, Bedford and Croton-river, shall be and continue a town by the name of Salem.

North
Salem.

And that all that part of the said county of Westchester, bounded southerly by Salem, easterly by Connecticut, northerly by Dutchess county, and westerly by the middle of Croton-river, shall be and continue a town by the name of North-Salem.

Cortlandt.

And that all that part of the said county of Westchester, bounded westerly by the middle of Hudson's river, northerly by the county of Dutchess, easterly by north lot number two and south lot number two of the manor of Cortlandt and the same line continued to the south

bounds of the manor of Cortlandt, and southerly by the south bounds of the manor of Cortlandt, shall be and continue a town by the name of Cortlandt.

And that all that part of the said county of Westchester, bounded westerly by the town of Cortlandt, northerly by the county of Dutchess, easterly by north lot number five, and south lot number five of the said manor of Cortlandt, and the same line continued to the south bounds of the said manor of Cortlandt, and southerly by the south bounds of the said manor of Cortlandt, shall be and continue a town by the name of York-Town.

And that all that part of the said county of Westchester, bounded westerly by York-Town, northerly by the county of Dutchess, easterly by North-Salem, Croton river and Bedford, and southerly by the south bounds of the manor of Cortlandt, shall be and continue a town by the name of Stephen-town.

And that all that part of the county of Dutchess, bounded southerly by the county of Westchester, westerly by the middle of Hudson's river, northerly by the north bounds of the land granted to Adolph Philipse Esq. and easterly by the east bounds of the long lot number four formerly belonging to Beverly Robison, shall be and continue a town by the name of Philip's-Town.

And that all that part of the said county of Dutchess lying east of Philips Town west of the east line of Philips' long lot, and south of a line to begin at a point in the east bounds of Philips-Town, six miles from the north bounds of the county of Westchester, and running north eighty seven degrees and thirty minutes east to the State of Connecticut, shall be and continue a town by the name of Carmel.

And that all that part of the said county of Dutchess, lying east of the said east line of Philips' long lot, and south of the above mentioned line, beginning at a point in the east bounds of said Philip's-Town, six miles from the north bounds of the county of Westchester, and running north eighty seven degrees and thirty minutes east and continued to the State of Connecticut, shall be and continue a town, by the name of Southeast.

And that all that part of the said county of Dutchess, lying east of the said east line of Philips' long lot, and north of the above mentioned line, beginning at a point in the east bounds of said Philip's-Town as aforesaid, and south of the north bounds of the lands granted to Adolph Philipse, shall be and continue a town by the name of Franklin.

And that all that part of the said county of Dutchess, lying west of the said east line of Philips' long lot, and north of the above mentioned line, beginning at a point in the east bounds of said Philip's-Town as aforesaid, east of Philips-Town, and south of the north bounds of the lands granted to Adolph Philipse, shall be and continue a town by the name of Frederick.

And that all that part of the said county of Dutchess, bounded southerly by Philips-Town and Frederick-town, westerly by the middle of Hudson's river, northerly by Wappinger's-kill or creek, and easterly by the east bounds of Rumbout's patent, shall be and continue a town by the name of Fish-kill.

And that all that part of the said county of Dutchess, bounded southerly by Frederick town, westerly by Fish-kill, northerly by the north bounds of the lands granted to Colonel Henry Beeckman, and easterly by a line beginning at the house now or late of Daries Talman, near the Nine-Partners line, and running from thence to the house now or late of William Clark, and from thence to the house now or late of Nathaniel

Lee, and from thence to the house now or late of Caleb Lamb, and from thence south sixteen degrees west to Frederick town, shall be and continue a town by the name of Beekman.

Pawling. And that all that part of the said county of Dutchess, bounded southerly by the town of Franklin and Frederick town, westerly by Beekman, northerly by the north bounds of the patent granted to Colonel Henry Beekman, continued to Connecticut, and easterly by Connecticut, shall be and continue a town by the name of Pawling.

Pough-keepsie. And that all that part of the said county of Dutchess, bounded easterly and southerly by Wappinger's-kill or creek, westerly by the middle of Hudson's river, and northerly by the tract of land called the Great or Lower Nine-Partners shall be and continue a town by the name of Poughkeepsie.

Clinton. And that all that part of the said county of Dutchess, bounded southerly by Poughkeepsie and Beekman, westerly by the middle of Hudson's river, northerly and easterly by a line beginning at the east bank of Hudson's river at the northwest corner of the tract of land, called Pawling's patent, and running along the north line of the same patent, to Crom-Elbow-kill, otherwise called Fish-creek, thence up along the said creek, to the line of the tract of land called the Little or Upper Nine-Partners, thence easterly along the said line to the northeast corner of lot number one, so known and distinguished in the first division of the said tract of land, called the Great or Lower Nine-Partners, and then southerly in the line of that tier of lots to the north bounds of Beekman aforesaid, shall be and continue a town by the name of Clinton.

Rhynbeck. And that all that part of the said county of Dutchess, bounded southerly by Clinton, westerly by the middle of Hudson's river, northerly by the county of Columbia, and easterly by the Little or Upper Nine-Partners, shall be and continue a town by the name of Rhynbeck.

Stanford. And that all that part of the said county of Dutchess, lying north of the north line of lots number fourteen and twenty three, laid out in the general division heretofore made of a tract of land called the Lower or Great Nine-Partners, and bounded southerly by the town of Washington, westerly by Clinton, northerly by the north bounds of the tract of land called the Lower or Great Nine-Partners, and easterly by the easternmost tier of lots laid out in the general division heretofore made of the said tract of land called the Lower or great Nine-Partners, shall be and continue a town by the name of Stanford.

Washington. And that all that part of the said county of Dutchess, bounded southerly by the town of Beekman, westerly by Clinton, northerly by Stanford, and easterly by the easternmost tier of lots laid out in the general division heretofore made of the said tract of land called the Lower or Great Nine-Partners, shall be and continue a town by the name of Washington.

Amenia. And that all that part of the said county of Dutchess, bounded southerly by the town of Pawling, westerly by the towns of Washington and Stanford, northerly by the north bounds of the said Lower or Great Nine Partners and an east line from the northeast corner thereof to Connecticut, and easterly by Connecticut, shall be and continue a town by the name of Ameniam.

Northeast. And that all that part of the said county of Dutchess, bounded westerly by Rhynbeck, northerly by the county of Columbia, and the Commonwealth of Massachusetts, easterly by Connecticut, and southerly by the towns of Clinton, Stanford and Ameniam, shall be and continue a town by the name of Northeast-Town.

And that all that part of the county of Rockland, bounded easterly by the middle of Hudson's river, southerly by New-Jersey, and westerly and northerly by a line beginning on Hudson's river, at the northeast corner of the farm late belonging to Herman Tallman deceased, and running from thence east to the middle of said river, and westerly along the said farm to the tract of land formerly granted to Teunis D. Tallman, and then southerly and westerly along the bounds of the same tract to Demarest's kill or Hackinsack river, and then down the stream thereof to the northeast corner of a tract of one thousand acres of land formerly sold for defraying the expences of dividing the patent of Kakiatt, and then westerly along the same to the northwest corner thereof, and then northerly, westerly and southerly along the land now or late belonging to Johannes Jos. Blauvelt to the northeast corner of the land now or late belonging to John M. Hogencamp, and then westerly and southerly along the same to the northeast corner of the land now or late belonging to John P. Mabie, and then westerly along his land to New-Jersey, shall be and continue a town by the name of Orangetown.—

Rockland
county;
Orange-
town.

And that all that part of the said county of Rockland, bounded westerly by a line beginning at the northwest corner of the land of John M. Hogencamp, called his middle town lot, and running from thence north three degrees west to the division line between the north and south moiety of the patent of Kakiatt, and then along the same east to the line of division between the east and west four hundred acre lots of the said north moiety, and then along the last mentioned division line, and continuing the same to the line of division between the mountain lots upon the top of the Verdrietege hook mountain, and northerly by the line running along the top of the said mountain, between the said mountain lots, to the east end thereof, and from thence to the head of the stream of water which runs from the Long Clove to Hudson's river, easterly by the middle of Hudson's river, and southerly by Orange Town, shall be and continue a town by the name of Clark's Town.

Clarkstown

And all that part of the said county of Rockland, bounded easterly by Clark's town and Orangetown, southerly by Orange Town and New-Jersey, westerly by New-Jersey, and Orange county, and northerly by a line running from the northwest corner of Clarkstown along the south bounds of the lands of Francis Gurnie and Benjamin Coe, and along the south bounds of the land of Gabriel Concklin, and the same course continued to the bounds of Orange county, shall be and continue a town by the name of Hampstead.

Hamp-
stead.

And that all that part of the said county of Rockland, bounded southerly by Hampstead and Clarks-Town, and easterly, northerly and westerly by the bounds of the county, shall be and continue a town by the name of Haverstraw.—

Haver
straw.

And that all that part of the county of Orange, beginning in the south bounds of the town of New-Windsor, at the northeast corner of a tract of land commonly called Van Dam's patent, and then along the east bounds of the said patent to the southeast corner thereof; thence southeast until it comes to the top of Schonamonk mountain; thence southwesterly along the top of said mountain to the line commonly called the new northwest line; thence northwest along said line to the division line between the patent of Wawayanda and Cheescoks, thence along the said line to the town of Warwick, thence northwardly along the line of the towns of Warwick and Goshen to the line of the town of Wallkill, and thence east along the said line and the line of the town

Orange
county;
Blooming
Grove.

of New-Windsor to the place of beginning, shall be and continue a town by the name of Blooming Grove.

Cheescocks. And that all that part of the said county of Orange, beginning in the east line of the town of Warwick, at the southerly corner of the town of Blooming-Grove, and thence southerly along the said line of the town of Warwick to the line of the State of New-Jersey; thence along the said line to the county of Rockland; thence along the said county of Rockland to the mouth of Poplopen's kill, on the west side of Hudson's river; thence a direct line to the southeast corner of the town of Blooming-Grove, and thence along the same to the place of beginning, shall be and continue a town by the name of Cheescocks.—

Cornwall. And that all that part of the said county of Orange, bounded northerly by New-Windsor, westerly by Cheescocks and Blooming-Grove, southerly by Cheescocks and the bounds of the county, and easterly by the middle of Hudson's river, shall be and continue a town by the name of Cornwall.

Goshen. And that all that part of the said county of Orange, bounded easterly by Blooming-Grove, northerly by the town of Wallkill, westerly by the middle of the Wallkill, and southerly by the creek, commonly called Quaker's creek, from where it falls into the Wallkill, on the south-westerly side of the great island in the drowned lands, to the road leading across the grist mill dam of William Thompson Esquire, thence along the southerly side of the said road running towards Sugarloaf mountain to the northerly line of the plantation, late of Samuel Rayner deceased, and thence along said line easterly to the southwest corner of a large tract of land, commonly called Rutger's tract, and thence easterly along the south bounds of the said tract to the foot of the said Sugarloaf-mountain, and then an east course to the bounds of Blooming-Grove, shall be and continue a town by the name of Goshen.—

Warwick. And that all that part of the said county of Orange, bounded easterly by Cheescocks and Blooming Grove, southerly by the State of New Jersey, westerly by the middle of the Willkill and northerly by Goshen, shall be and continue a town by the name of Warwick.

Minisink. And that all that part of the said county of Orange, bounded easterly by the middle of the Wallkill, southerly by New-Jersey, westerly by Delaware river, and northerly by the towns of Wallkill and Deerpark shall be and continue a town by the name of Minisink.

New Windsor. And that all that part of the said county of Orange, bounded easterly by the middle of Hudson's river, southerly by an east and west line from the mouth of Murderer's creek and westerly and northerly by a line beginning at the west side of Hudson's river, at the mouth of Quasick creek, and running from thence along the south bounds of a tract of land commonly called German patent, and the southerly bounds of a tract of land granted to Alexander Baird and company, to the east bounds of two thousand acres of land granted to Cadwallader Colden, and then across the same to the most northerly corner of the land granted to Patrick Hume, and thence along the westerly bounds thereof to the lands granted to Patrick McKnight, and then along the same, south-easterly and southwesterly, to the southerly corner thereof, and then continuing the last mentioned line to the town of Blooming Grove, so as to include the lands formerly of Fletcher Matthew shall be and continue a town by the name of New-Windsor.

Newburgh. And that all that part of the said county of Orange, bounded easterly by the middle of Hudsons river, southerly by New-Windsor, westerly by the east bounds of the tract of land granted to Cadwallader Colden, and the east bounds of one thousand acres of land granted to John

Johnson, and the east bounds of three thousand acres of land granted to Henry Wileman, and the east bounds of three thousand five hundred acres of land granted to Rip Van Dam and others, and northerly by a line beginning on the west side of Hudson's river, at the northeast corner of a tract of land granted to Francis Harrison and company, called the five thousand acre tract, and running from thence east to the middle of Hudson's river, and westerly along the north bounds of the said tract, and the north bounds of another tract granted to the said Francis Harrison to the tract of land commonly called Wallace's tract, then along the lines of the same northerly and westerly to the northeasterly bounds of a tract of land granted to Jacobus Kip, John Cruger and others, commonly called Kip and Cruger's tract, then westerly along the northeasterly and northerly bounds thereof to the northwest corner thereof, and then westerly to the northeast corner of the said tract of three thousand five hundred acres of land granted to Rip Van Dam and others, shall be and continue a town by the name of Newburgh.

And that all that part of the said county of Orange, bounded easterly **Wallkill** by New Windsor, southerly by a west line from the mouth of Murderer's creek, westerly by Shawangunk-kill, and northerly by the line commonly called the old northwest line, shall be and continue a town by the name of Wallkill.

And that all that part of the said county of Orange, bounded easterly **Montgomery** by New-Windsor and Newburgh, southerly by the town of Wallkill, westerly by Shawangunk-kill, and northerly by a line beginning at the northeast corner of a tract of three thousand acres of land granted to Henry Wileman, and running thence along the north bounds thereof to the Paltz-river commonly called the Wall-kill, and then southerly up the same river to the southwest corner of a tract of four thousand acres of land granted to Gerardus Beekman and others, and then westerly and northerly along the southerly and westerly bounds thereof to the northwest corner thereof, and then northwesterly along the north bounds of the lands granted to Jeremiah Schuyler and company to the Shawangunk-kill aforesaid, shall be and continue a town by the name of Montgomery.

And that all that part of the said county of Orange, beginning on the **Deerpark** Shawangunk-kill, at the southwest corner of the town of Wallkill, and running thence along the said kill, being the boundary line of the said town of Wall-kill to the north part of the farm now or lately occupied by Joseph Wood Junior, thence west to the river Mongaap thence along the said river Mongaap as it runs to the Delaware river, then along the said river to the town of Minisink, and thence along the northern boundary of the said town of Minisink to the place of beginning shall be and continue a town by the name of Deerpark.

And that all that part of the county of Ulster, bounded easterly by the middle of Hudson's river, southerly by Orange county, westerly by a line beginning on the line of the said county of Orange, two chains and seventy five links east of the north corner of a tract of land called the Five Patentees, from thence on a straight line northward to the most easterly bounds of Robert Tift's land where it joins the town of New-Paltz, and northerly by a tract of land granted to Lewis Dubois and partners, called the New Paltz patent, shall be and continue a town by the name of Marlborough.

And that all that part of the said county of Ulster, bounded easterly **Plattekill** by Marlborough, southerly by Orange county, westerly by the east bounds of two thousand acres of land granted to Peter Barberie and the east bounds of two thousand acres of land granted to William Hud-

dleston and the east bounds of two thousand acres of land granted to Thomas Garland, and northerly by a tract of land granted to Lewis Dubois and partners, called the New-Paltz patent, and a tract of land granted to Noah Elting and Nathaniel La Fever, and a tract of land granted to Anna Mullender, commonly called Mullender's tract, and a tract of land granted to Hugh Frere, and the southerly line thereof, continued to the east bounds of the said two thousand acres of land granted to the said Thomas Garland, shall be and continue a town by the name of Platte-Kill.

Shawangunk.

And that all that part of the said county of Ulster, bounded easterly by Orange county and the town of Platte-Kill, southerly by Orange county, westerly by the Platte-Kill river, and the east foot of the Shawangunk mountains, and northerly by a line beginning at the northeast corner of a tract of two thousand acres of land granted to William Huddleston, and running from thence along the north bounds thereof and the north bounds of two thousand acres of land granted to Peter Mathews and others to the mouth of Shawangunk kill, and then westerly along the north side of the same kill, as it runs to the southwest corner of the land granted to Colonel Jacob Rutsen, and then along the westerly bounds thereof to the northwest corner thereof, and then along the southerly bounds of a tract of land granted to Stephen Dubois, to the southwest corner thereof, and then northwest to Shawangunk mountains aforesaid, shall be and continue a town by the name of Shawangunk.

Kingston.

And that all that part of the said county of Ulster, called the township of Kingston, and manor of Fox-Hall, and extending northward to the line of the county of Green, and southward to the north bounds of a tract of land granted to Lewis Dubois, and partners, called the New-Paltz patent and east to the middle of Hudson's river, shall be and continue a town by the name of Kingston.

Hurley.

And that all that part of the said county of Ulster, called the township of Hurley, including all that certain tract of land formerly comprehended within the bounds of the Great or Hardenbergh's patent, and released by Margaret Livingston lately deceased to the inhabitants of Hurley; and also all that tract of land beginning in the northwest corner of the New Paltz patent and running thence south fifty degrees east one hundred and eighteen chains, to the east bank of the Wallkill, thence north seventy one degrees and twenty minutes east one hundred and fifty four chains to where the east bounds of the said township of Hurley intersects the north bounds of New-Paltz, and thence northwesterly along the bounds of the New-Paltz patent to the place of beginning, shall be and continue a town by the name of Hurley.—

Marbletown.

And that all that part of the said county of Ulster, called Marbletown, shall be and continue a town by the name of Marbletown.

New Paltz.

And that all that part of the said county of Ulster, bounded northerly by Kingston and Hurley, easterly by the middle of Hudson's river, southerly by Marlborough, Platte-Kill and Shawangunk, and westerly by the west bounds of the New-Paltz patent, continued southerly to the northwest corner of Shawangunk shall be and continue a town by the name of New-Paltz.

Woodstock

And that all that part of the said county of Ulster, bounded southerly by the towns of Nevisink, Rochester, Marbletown, and Hurley, easterly by Marbletown, Hurley and Kingston, northerly by the bounds of the county, and westerly by the bounds of the county, shall be and continue a town by the name of Woodstock.—

And that all that part of the said county of Ulster bounded westerly **by** Mongaap river, northeasterly by the towns of Nevisink and Rochester, easterly by the town of Shawangunk and the county of Orange, and southerly by the county of Orange, shall be and continue a town by the name of Mamakating. Mamakating.

And that all that part of the said county of Ulster, bounded southwesterly and northwesterly by the bounds of the county, northeasterly **by** the town of Nevisink, and easterly by the town of Mamakating shall be and continue a town by the name of Lumberland. Lumberland.

And all that part of the said county of Ulster, bounded southeasterly **by** the towns of Shawangunk and New-Paltz, southwest by a line running from the southerly corner of the patent of Rochester, where it meets with the northwesterly bounds of the town of Shawangunk, at the Shawangunk mountains north forty nine degrees and thirty minutes west, a distance of twelve miles and an half, northwesterly by a line running from thence north forty degrees east till it intersects a line continued northwesterly from the southwesterly bounds of Marletown and northeasterly by Woodstock and Marletown shall be and continue a town by the name of Rochester. Rochester.

And that all that part of the said county of Ulster, contained within the following bounds to wit, beginning at the most westerly corner of the town of Rochester, and running thence along the northwesterly bounds of said town to the most northerly corner thereof, thence northwesterly along a line which is a continuation of the southwesterly bounds of the town of Marletown to a line which is a southwesterly continuation of the west bounds of a lot in great lot number eight in the Hardenbergh patent now or late belonging to Johannah Livingston, then along the last mentioned continuation line south thirty degrees west six miles to the division line of great lots number five and six in said Hardenbergh patent, then along the said division line to the division line between the counties of Ulster and Delaware, thence along the said line south sixty two degrees west twelve miles and ten chains, and thence south forty nine degrees and thirty minutes east to the place of beginning shall be and continue a town by the name of Nevisink. Nevisink.

And that all that part of the county of Delaware, bounded southwesterly and southeasterly by the bounds of the county, northwesterly by a line beginning on the Cookquago branch of the Delaware river, at the most southerly corner of lot number eight in the subdivision of great lot number thirty five in the Hardenbergh patent, and running thence northeasterly along the line dividing the southeasterly from the northwesterly lots in the subdivision of the said lot number thirty five, thence continuing the same course till it intersects a line running as follows vizt. from the Delaware river on the division line between the great lots number thirty seven and number thirty eight in the said Hardenbergh patent, southeasterly to the northwest corner of a tract of land now or late belonging to Jacob Tremper, then along his bounds southerly to Paghkataghkan-kill, thence the same course continued to the division line between the great lots number five and number six in the said Hardenbergh patent, then southeasterly along the last mentioned line to the east bounds of the county, and northeasterly by the line so intersected as aforesaid, and running from Delaware river, to the east bounds of the county, shall be and continue a town by the name of Colchester. Delaware county; Colchester.

And that all that part of the said county of Delaware, bounded southwesterly by Colchester, southeasterly by the bounds of the county, northeasterly by a line continued southeasterly from the Delaware river between the lots number forty and number forty one of the original Middletown.

division of the great Hardenbergh patent to the Papachton river, thence across the said river to the east bounds of the county, and northwesterly by a line running from a monument in the southerly line of the town of Stamford, at the distance of six miles from Delaware river, southerly on a direct line across the highlands to a monument placed on the northerly bounds of the town of Colchester, six miles from Delaware river, shall be and continue a town by the name of Middletown.

Roxbury. And that all that part of the said county of Delaware, beginning at the most easterly corner of the town of Delhi, and running thence easterly to the highest peak of the high mountain where the head of Rose's brook rises; thence following the ridge or chain of mountains northerly from peak to peak to the highway or road on the top of the mountain that leads from the town-plot, so called, to the dwelling house now or late of John Moore esquire; thence due north to the northeasterly bounds of the said county of Delaware; thence southeasterly along the same to the town of Windham; thence along the same southwesterly to the town of Middletown; and thence along the same northwesterly to the place of beginning, shall be and continue a town by the name of Roxbury.

Stamford. And that all that part of the said county of Delaware, bounded westerly by the Delaware river, northerly by the same and the north bounds of the county, easterly by Roxbury, and southerly by the northeasterly line of the town of Delhi, being a continuation of the line above mentioned & described, as forming part of the northeasterly bounds of Middletown, shall be and continue a town by the name of Stamford.

Harpersfield. And that all that part of the said county of Delaware, bounded northeasterly and northwesterly by the bounds of the county, southeasterly by Stamford, and southwesterly by the division line between the patents of Kortright and Harpersfield, shall be and continue a town by the name of Harpersfield.—

Delhi. And that all that part of the said county of Delaware, beginning at a monument on the Cookquago branch of the Delaware river, in the northeasterly line of the town of Walton, on the south side of Leake's patent, thence westerly on the line of said patent, until it intersects the division line between the towns of Walton and Franklin, thence northerly on said division line continued to the bounds of the town of Meredith, thence southeasterly and northeasterly along the lines of said town to the southerly bounds of a tract of land granted to Goldsbrow Banyar, being the south bounds of the town of Kortright, then along the same to Delaware river, thence up the same to the southerly bounds of the town of Stamford, thence easterly on said southerly line six miles to the northwest corner of the town of Middletown, thence southwesterly along the bounds of Middletown to the northerly bounds of Colchester, thence northwesterly along the line above mentioned and described as forming part of the northeasterly bounds of Colchester to the place of beginning shall be and continue a town by the name of Delhi.—

Meredith. And that all that part of the said county of Delaware, contained within the following bounds to wit; beginning at a stake and stones near the dwelling house now or late of Andrew Dibble, standing in the line between the patents of Franklin and Goldsborough, as also in the division, line between the towns of Delhi and Franklin, near Elk creek, so called, thence south fifty eight degrees and fifteen minutes west seven miles and three rods to a stake and stones standing in the middle subdivision line of the patent of Whitesborough, thence along said middle line across the division line between the towns of Delhi and Franklin, north thirty one degrees and forty five minutes west five miles and fifty one rods and

ten links to a small beach tree near the dwelling house now or late belonging to Joseph Brimhall; thence in the line between lots number fourteen, fifteen, four and five of the said patent of Whitesborough, north fifty degrees and fifteen minutes east two miles, one quarter and eight rods to a stake and stones; thence continuing the same course seven miles and three rods, to a certain point, bearing north thirty one degrees and forty five minutes west and distant fifty one rods and ten links from a stake and stones near a maple tree blazed and marked IB. D. Z. H. and from thence in a line of marked trees, south thirty one degrees and forty five minutes east five miles, fifty one rods and sixteen links, and from thence south fifty eight degrees and fifteen minutes west, two miles one quarter and eight rods to the place of beginning, shall be and continue a town by the name of Meredith.—

And that all that part of the said county of Delaware, bounded north-Kortright.
westerly by the bounds of the county, northeasterly by Harpersfield, southeasterly by the Delaware river and the town of Meredith, and southwesterly by the towns of Delhi and Meredith, and the northeast line of the tract of land formerly granted to Henry White and others shall be and continue a town by the name of Kortright.

And that all that part of the said county of Delaware, bounded north-Franklin.
westerly by the bounds of the county, southeasterly by a line continued from a beach tree marked F. W. being five miles distant from the Delaware river on the northeast line of a tract of land formerly granted to Henry White and others, south sixty degrees west to the west corner of Delhi, thence south eighty eight degrees west until it intersects the State road, thence south sixty two degrees west to the line of property, westerly by a line beginning at a large black oak tree marked T. C. standing on the bank of the Susquehannah river on lot number thirty three in Wallace's patent and running thence south fourteen degrees west to the State road, thence due south to the before mentioned line, and northerly by the towns of Meredith and Kortright shall be and continue a town by the name of Franklin.—

And that all that part of the said county of Delaware bounded north-Sidney.
westerly and westerly by the bounds of the county and easterly by the town of Franklin and the continuation of said line as forming the westerly bounds of Franklin to the line of property, shall be and continue a town by the name of Sidney.—

And that all that part of the said county of Delaware, bounded north-Walton.
westerly by Franklin and Sidney, northeasterly by Delhi, southeasterly by Colchester, and southwesterly by the bounds of the county, shall be and continue a town by the name of Walton.

And that all that part of the county of Green bounded southerly andGreene
county;
Catskill.
westerly by the county of Ulster, and by a line continued from the northwest corner of the town of Kingston in the county of Ulster to the head of Katters kill or creek where the same issues out of the southerly side or end of a certain lake or pond lying in the Blue mountains, and from thence in a direct course towards the small lake Utsyantho, till it intersects a line beginning at the south bank of the mouth of the Murderer's kill at Lunenburgh, and running from thence north eighty degrees west to the said intersection, and northerly by the said last mentioned line, shall be and continue a town by the name of Catskill.

And that all that part of the said county of Green, bounded south-Windham.
easterly, southerly and westerly by the bounds of the county, easterly by a line running from the northwest corner of Kingston in the county of Ulster, northerly by Catskill and by the southwesterly line of Catskill

roneck-river, and westerly by the town of Scarsdale, shall be and continue a town by the name of Mamaroneck.

White
Plains.

And that all that part of the said county of Westchester, bounded easterly by Mamaroneck-river, northerly by North-Castle, westerly by Bronx-river, and southerly by the town of Scarsdale, shall be, and continue a town by the name of White-Plains.

Harrison.

And that all that part of the said county of Westchester, called and known by the name of Harrison's purchase, shall be and continue a town by the name of Harrison.

Rye

And that all that part of the said county of Westchester, bounded southerly by the sound, easterly by Connecticut, and westerly by the town of Harrison and Mamaroneck-river, including Captain's island, and all the islands in the sound lying south of the said bounds, shall be and continue a town by the name of Rye.

North
Castle.

And that all that part of the said county of Westchester, bounded southerly by the town of White-Plains, the town of Harrison and the State of Connecticut, easterly by Connecticut and Poundridge, westerly by the Bronx-river, and northerly by the town of Bedford and a line drawn from the southwest corner of the town of Bedford to the head of Bronx-river on the eastern line of Mount-Pleasant, shall be and continue a town by the name of North-Castle.

New
Castle.

And that all that part of the said county of Westchester, bounded southerly by North Castle, westerly by Mount-Pleasant, northerly by the manor of Cortlandt, and easterly by the town of Bedford, shall be and continue a town by the name of New-Castle.—

Bedford.

And that all that part of the said county of Westchester, formerly called and known by the name of Bedford, shall be and continue a town by the name of Bedford.

Pound-
ridge.

And that all that part of the said county of Westchester, bounded southerly by the State of Connecticut, easterly and northerly by Salem, and westerly by Bedford & Mahanus-river, shall be and continue a town by the name of Pound-ridge.

Salem.

And that all that part of the said county of Westchester, bounded northerly by a line beginning at a monument in the line between this State and Connecticut, east of the north long-pond, and running westerly by the north side of the said pond and the south bounds of the land now or late belonging to Ezekiel Hawley, until it comes to the road leading over the mountain, and then crossing the same road and running northerly along the west side of the same road to the land now or late belonging to Ezekiel Hawley, and then westerly along the same to the west line of the oblong, then northerly along the said oblong line, until it comes to the south line of the north lot number ten of the manor of Cortlandt, and then westerly along the south bounds of the said lot number ten, and the south bounds of the north lots number nine and eight to Croton river, and then down the said river to Bedford, easterly and southerly by Connecticut, Pound-ridge and Bedford, and westerly by Poundridge, Bedford and Croton-river, shall be and continue a town by the name of Salem.

North
Salem.

And that all that part of the said county of Westchester, bounded southerly by Salem, easterly by Connecticut, northerly by Dutchess county, and westerly by the middle of Croton-river, shall be and continue a town by the name of North-Salem.

Cortlandt.

And that all that part of the said county of Westchester, bounded westerly by the middle of Hudson's river, northerly by the county of Dutchess, easterly by north lot number two and south lot number two of the manor of Cortlandt and the same line continued to the south

bounds of the manor of Cortlandt, and southerly by the south bounds of the manor of Cortlandt, shall be and continue a town by the name of Cortlandt.

And that all that part of the said county of Westchester, bounded westerly by the town of Cortlandt, northerly by the county of Dutchess, easterly by north lot number five, and south lot number five of the said manor of Cortlandt, and the same line continued to the south bounds of the said manor of Cortlandt, and southerly by the south bounds of the said manor of Cortlandt, shall be and continue a town by the name of York-Town.

And that all that part of the said county of Westchester, bounded westerly by York-Town, northerly by the county of Dutchess, easterly by North-Salem, Croton river and Bedford, and southerly by the south bounds of the manor of Cortlandt, shall be and continue a town by the name of Stephen-town.

And that all that part of the county of Dutchess, bounded southerly by the county of Westchester, westerly by the middle of Hudson's river, northerly by the north bounds of the land granted to Adolph Philipse Esq. and easterly by the east bounds of the long lot number four formerly belonging to Beverly Robison, shall be and continue a town by the name of Philips-Town.

And that all that part of the said county of Dutchess lying east of Philips Town west of the east line of Philips' long lot, and south of a line to begin at a point in the east bounds of Philips-Town, six miles from the north bounds of the county of Westchester, and running north eighty seven degrees and thirty minutes east to the State of Connecticut, shall be and continue a town by the name of Carmel.

And that all that part of the said county of Dutchess, lying east of the said east line of Philips' long lot, and south of the above mentioned line, beginning at a point in the east bounds of said Philip's-Town, six miles from the north bounds of the county of Westchester, and running north eighty seven degrees and thirty minutes east and continued to the State of Connecticut, shall be and continue a town, by the name of Southeast.

And that all that part of the said county of Dutchess, lying east of the said east line of Philips' long lot, and north of the above mentioned line, beginning at a point in the east bounds of said Philip's Town as aforesaid, and south of the north bounds of the lands granted to Adolph Philipse, shall be and continue a town by the name of Franklin.

And that all that part of the said county of Dutchess, lying west of the said east line of Philips' long lot, and north of the above mentioned line, beginning at a point in the east bounds of said Philip's-Town as aforesaid, east of Philips-Town, and south of the north bounds of the lands granted to Adolph Philipse, shall be and continue a town by the name of Frederick.

And that all that part of the said county of Dutchess, bounded southerly by Philips-Town and Frederick-town, westerly by the middle of Hudson's river, northerly by Wappinger's-kill or creek, and easterly by the east bounds of Rumbout's patent, shall be and continue a town by the name of Fish-kill.

And that all that part of the said county of Dutchess, bounded southerly by Frederick town, westerly by Fish-kill, northerly by the north bounds of the lands granted to Colonel Henry Beeckman, and easterly by a line beginning at the house now or late of Daries Talman, near the Nine-Partners line, and running from thence to the house now or late of William Clark, and from thence to the house now or late of Nathaniel

- bounds of the manor of Rensselaerwyck, and westerly by the county of Albany, including such of the islands in Hudson's river as are nearest the east side thereof, shall be and continue a town by the name of Troy.

Schaghticoke.

And that all that part of the said county of Rensselaer, bounded southerly by Troy, westerly by the bounds of the county, northerly by a line beginning at the mouth of Lewis's creek or kill, and running from thence south eighty four degrees east to Hosick river, and easterly and southeasterly by a line* running from thence down along Hosick river as it runs to Veile's or Toll's bridge, and then in a direct course to the westernmost corner of Michael Vander Crook's grist mill in Cooksburch, and from thence in the same direction to the mannor of Rensselaerwyck, shall be and continue a town by the name of Schactikoke.—

Pittstown.

And that all that part of the said county of Rensselaer, bounded southerly by Troy and Petersburg, westerly by Schactikoke, northerly by Schactikoke, and the north bounds of the county of Rensselaer, and easterly by a line beginning at the distance of ten miles east from Hudson's river on the north line of Schactikoke continued east, and running from thence to a place in the north bounds of Petersburg, at the distance of thirteen miles from Hudson's river, shall be and continue a town by the name of Pitts town.

Hosick.

And that all that part of the said county of Rensselaer bounded easterly by the east bounds of this State, southerly by Petersburg, westerly by Pitts town, and northerly by the north bounds of the county of Rensselaer, shall be and continue a town by the name of Hosick.

Washington county;
Cambridge

And that all that part of the county of Washington, bounded easterly by the east bounds of this State, southerly by the county of Rensselaer, westerly by the east bounds of Saraghtoga patent, and northerly by the river called Battenkill, shall be and continue a town by the name of Cambridge.

Easton.

And that all that part of the said county of Washington, bounded southerly by the county of Rensselaer, easterly by Cambridge, westerly by the bounds of the county, and northerly by Battenkill, shall be and continue a town by the name of Easton.

Argyle.

And that all that part of the said county of Washington, bounded southerly by Easton and Cambridge, westerly by the bounds of the county, northerly by a tract of land called Kingsbury, and a tract of land called the provincial patent, and easterly by the east bounds of a tract of land called the township of Argyle, shall be and continue a town by the name of Argyle.

Salem.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Cambridge, westerly by Argyle, and northerly by the north bounds of a tract of land called Turner's patent, and a line running from the northeast corner thereof, east to the east bounds of the county of Washington, shall be and continue a town by the name of Salem.—

Hebron.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Salem aforesaid, westerly by Argyle, and the said tract of land called the provincial patent, and northerly by an east and west line run from the southeast corner of a tract of land formerly granted to Lieutenant Byrn, shall be and continue a town by the name of Hebron.

Granville.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Hebron afore-

* So in original.

said, westerly by the said tract called the provincial patent, and a tract of land called the artillery patent, and northerly by a tract of land heretofore called Skeensborough, and a line running east from the southeast corner thereof to the east bounds of this State, shall be and continue a town by the name of Granville.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Granville aforesaid, westerly by the said tract of land heretofore called Skeensborough and a line running from the northeast corner thereof northeast to the north bounds of this State, and northerly by the north bounds of this State, shall be and continue a town by the name of Hampton.

And that all that part of the said county of Washington, bounded easterly by Hampton, southerly by the south bounds of the tract of land heretofore called Skeensborough, westerly by the west bounds of the said tract and the waters of South-bay, and northerly by the north bounds of this State shall be and continue a town by the name of Whitehall.

And that all that part of the said county of Washington, bounded easterly by the said tract of land called the Provincial patent, southerly by Argyle and Hudson's river, westerly by the west bounds of a tract of land called Kingsbury and northerly by the north bounds of the said tract of land called Kingsbury shall be and continue a town by the name of Kingsbury.

And that all that part of the said county of Washington, bounded southerly by Kingsbury and the Provincial patent, easterly by Granville Whitehall and the State of Vermont, northerly by Whitehall, and the north bounds of the said county of Washington, and westerly by Lake George, and a line beginning at the northwest corner of the town of Kingsbury, and running in the direction of Kingsbury west bounds till it strikes the waters of Lake George, shall be and continue a town by the name of Westfield.

And that all that part of the said county of Washington, commonly called and known by the name of the Provincial patent, lying easterly of the town of Kingsbury shall be and continue a town by the name of Hartford.

And that all that part of the said county of Washington, bounded easterly by Westfield and Kingsbury and separated from Westfield by a line beginning at the northwest corner of the town of Kingsbury, and running in the direction of Kingsbury west bounds till it strikes the waters of Lake George, westerly by Fairfield, northerly by Lake George, and a line running from the mouth of McAuley's creek, near the south end of said lake direct to the northeast corner of the town of Fairfield and southerly by the bounds of the county shall be and continue a town by the name of Queensbury.

And that all that part of the said county of Washington, beginning at the southwest corner of the lands granted by the ancient letters patent of the town of Queensbury, and running from thence north along the west line of the lands granted by the said letters patent, and continuing a north line until it intersects a west line from Fort George, at the south end of Lake George, thence west on the last mentioned line to the bounds of the county in the river Hudson, thence down the same following the bounds of the county to the place of beginning, shall be and continue a town by the name of Fairfield.

And that all that part of the said county of Washington, beginning at the mouth of McAuley's creek, thence up the said creek, until it shall have crossed the road that leads from Lake George to Scroon river, five

rods from the centre of the said road; thence westerly following the course of the said road at the distance of five rods from the center, two miles from the place of beginning; then crossing the road at right angles ten rods from the last mentioned corner; thence following the course of the said road at the distance of five rods from the centre to Scroon river; thence northerly on the east bank of Scroon river and lake to the south line of Essex county; thence east on the south line of Essex county to the east side of Lake George, thence southerly on the east bank of Lake George to the place of beginning, shall be and continue a town by the name of Bolton.

Chester. And that all that part of the said county of Washington, beginning on the east bank of Hudson's river where the south line of Essex county crosses the said river, thence due east on the south line of Essex county to the east side of Scroon lake to the west line of the town of Bolton; thence southerly on the west line of the said town of Bolton to the north corner of what was formerly called Hyde township; thence south fifty nine degrees west to the river Hudson; thence northerly on the east bank of the said river to the place of beginning, shall be and continue a town by the name of Chester.

Thurman. And that all that part of the said county of Washington, bounded southerly by Queensbury, Fairfield and the south bounds of the county, westerly by the west bounds of the county, northerly by the bounds of the county and by Chester and Bolton, shall be and continue a town by the name of Thurman.

Essex county; Crown Point. And that all that part of the county of Essex, bounded southerly by the south bounds of the said county of Essex, westerly by the west bounds of the said county, northerly by a line beginning at the north-east corner of a tract of land granted to Major Small and continued east to the east bounds of this State, and continued west along the north line of the said patent and in the same direction to the west bounds of the county and easterly by the east bounds of this State, shall be and continue a town by the name of Crownpoint.

Elizabeth town. And that all that part of the said county of Essex, bounded southerly by Crownpoint, west by the west bounds of the county, northerly by the south line of Judds patent continued easterly to the east bounds of this State, and westerly till it intersects the west bounds of the county aforesaid, and easterly by the east bounds of this State, shall be and continue a town by the name of Elizabeth town.

Willsborough. And that all that part of the said county of Essex, bounded southerly by Elizabeth Town, westerly by Jay, northerly by the north bounds of the said county and easterly by the east bounds of this State, shall be and continue a town by the name of Willsborough.

Jay. And that all that part of the said county of Essex, bounded easterly by a line beginning where the military line intersects the north bounds of Elizabeth Town, then north to the twelve mile tree; then north forty five degrees east to a line continued west from the south bounds of a tract of three thousand six hundred acres of land granted to Matthew Adgate, northerly by said line continued as aforesaid and the north bounds of the county, westerly by the west bounds of the county, and southerly by Elizabeth Town, shall be and continue a town by the name of Jay.

Clinton county; Peru. And that all that part of the county of Clinton, bounded northerly by a line beginning in the east bounds of this State on an east point from the southeast corner of a tract of land granted to John Friswell; from thence running west on the south line of the tract aforesaid to the southwest corner thereof; then north to Plattsburgh patent; then west on

the south line of the patent aforesaid and the same course westward to the west bounds of the county of Essex continued north, westerly by the last mentioned line, southerly by the bounds of the county, and easterly by the east bounds of this State, shall be and continue a town by the name of Peru.

And that all that part of the said county of Clinton, bounded south-
erly by Peru, westerly by the west bounds of the county, of Essex con-
tinued north northerly by the town of Chateuaga and the north line of
a patent granted to William Beekman & others, continued westward to
the town of Chateuaga and eastward to the east bounds of this State,
and easterly by the east bounds of this State, shall be and continue a
town by the name of Plattsburgh. Platts-
burgh.

And that all that part of the said county of Clinton, bounded south-
erly by Plattsburgh, easterly by the east bounds of this State, northerly
by the north bounds of this State and westerly by the town of Chateuaga,
shall be and continue a town by the name of Champlain. Champlain

And that all that part of the said county of Clinton, bounded north-
erly by the north bounds of this State, westerly by the west bounds of
the county of Essex continued north, southerly by the south bounds of
townships number eight and five in a tract of land in the said county
formerly set apart for the use of the troops of the line of this State,
lately serving in the army of the United States and said south bounds
continued to the west bounds of the county and easterly by the east
bounds of township number five aforesaid and of township number six
in the said tract, shall be and continue a town by the name of Chateuaga;
all the remaining part of the said county of Clinton shall be annexed to
and form part of the town of Lisbon.— Lisbon.

And that all that part of the county of Saratoga, bounded northerly
by Ball's town, and also by Anthony's kill, and a line from that part of
the said kill where it comes out of the Round lake, to the southeast
corner of Ball's town, easterly by the east bounds of the county, south-
erly by the middle of the Mohawk river and its most northerly sprout,
westerly by the west bounds of the county, and a line running from the
south end of the Long lake south fifty three degrees west along the estab-
lished bounds of Ballstown, to the bounds of Albany county, shall be and
continue a town by the name of Halfmoon. Saratoga
county;
Halfmoon

And that all that part of the said county of Saratoga bounded south-
erly by Halfmoon, easterly by the east bounds of the county, northerly
by the north bounds of lot number seventeen, in Saraghtoga patent con-
tinued in the same direction west to the town of Milton, and westerly
by Ballstown and Milton, shall be and continue a town by the name
of Stillwater. Stillwater.

And that all that part of the said county of Saratoga, bounded north-
erly by Northumberland and Greenfield, easterly by the county of
Washington, southerly by Stillwater and westerly by a north line con-
tinued from the northeast corner of Ballstown to the town of Greenfield,
shall be and continue a town by the name of Saraghtoga. Saratoga.

And that all that part of the said county of Saratoga, beginning at
the southeast corner of lot number seven, in the seventeenth allotment
of the patent of Kayaderoseras; thence running north, along the east
bounds thereof, to the southerly bounds of the twenty second allotment
of the said patent; thence northeasterly, along the same to the south-
west corner of the twenty third allotment of the said patent; thence
northerly along the west bounds thereof, to the southwest corner of the
twenty fifth allotment of the said patent, from thence north to Hudson's
river, thence along the west bounds of the county of Washington to the Greenfield.

north bounds of the said county of Saratoga; thence west to the north-east corner of the town of Providence in the said county of Saratoga; thence south, on the east line of the same, to the north bounds of the sixteenth allotment, of the patent aforesaid, and from thence easterly along the same, to the place of beginning, shall be and continue a town by the name of Greenfield.—

Northumberland.

And that all that part of the said county of Saratoga, beginning on Hudson's river, at the northeast corner of the tenth general allotment of the patent of Kayaderosseras, from thence along the north bounds thereof and the north bounds of the ninth and sixteenth allotments of the said patent west to the southeast corner of the town of Greenfield, thence northerly along the east bounds thereof to the middle of Hudson's river, thence down the said river on the bounds of the county of Washington to a point due east from the place of beginning, thence west to the place of beginning, shall be and continue a town by the name of Northumberland.—

Milton.

And that all that part of the said county of Saratoga, bounded northerly by Greenfield, easterly by Saraghtoga, southerly by a line beginning in the southeast corner of the fourteenth allotment, in the general division of the patent of Kayaderosseras and running thence west along the south bounds of the said allotment to the middle of the south bounds of lot number nine in the subdivision of the allotment aforesaid, and westerly by a line running from thence due north to the southwest corner of the town of Greenfield, shall be and continue a town by the name of Milton.

Providence

And that all that part of the said county of Saratoga, beginning at the northwest corner of the town of Milton, and running thence a west course on a parallel line, with the north bounds of the town of Charlton, to the county of Montgomery, and thence north on the east line of the county of Montgomery to the north bounds of the county of Saratoga, and thence east on the said north bounds, to a line running north from the northeast corner of Milton, thence south along said line to the place of beginning shall be and continue a town by the name of Providence.

Galway.

And that all that part of the said county of Saratoga, bounded easterly by Milton, southerly by a line running from the southwest corner of Milton, west along the south bounds of the said fourteenth allotment to the line of the county of Montgomery, westerly by Montgomery county and northerly by Providence, shall be and continue a town by the name of Galway.—

Charlton.

And that all that part of the said county of Saratoga, bounded by a line beginning at the southwest corner of the town of Galway, and running thence south along the east bounds of the county of Montgomery to the north bounds of the county of Albany; thence easterly along the north bounds of the county of Albany until a north line as the needle pointed in the year one thousand seven hundred and ninety five will strike the southwest corner of the tract of land commonly called, the five mile square, thence northerly to the southwest corner of the said five mile square; thence along the west bounds of the said five mile square to the south bounds of the town of Milton; thence along the south bounds of Milton and Gallway to the place of beginning, shall be and continue a town by the name of Charlton.

Ballston.

And that all that part of the said county of Saratoga, bounded westerly by Charlton, southerly by the north bounds of the county of Albany and by Halfmoon, easterly by Stillwater, and northerly by Milton, shall be and continue a town by the name of Balls'-town.

And that all that part of the county of Albany, bounded northerly by the county of Saratoga, easterly by Halfmoon and Watervliet, southerly by the north bounds of the manor of Rensselaerwyck, and westerly by the county of Montgomery and a line running from that part of the Mohawk river where the line of the county of Montgomery comes to the said river, south to the manor of Rensselaerwick, excepting thereout the tract of land called Corey's Bush and the church land adjoining the patent of Schenectady on the south side of the Mohawk river, shall be and continue a town by the name of Schenectady.

Albany
county;
Schenec-
tady.

And that all that part of the said county of Albany, known by the name of Corey's Bush, together with the church land adjoining the patent of Schenectady on the south side of the Mohawk river, shall be and continue a town by the name of Prince town.

Prince-
town.

And that all that part of the said county of Albany, bounded on the north by the county of Montgomery, on the west by the Schoharie river and the Schoharie patent, on the south by the north bounds of lands granted to Johannis Lawyer and others, and the south bounds of lands granted to Captain Jonathan Brewer and the manor of Rensselaerwyck, and on the east by Prince town, shall be and continue a town by the name of Duanesburgh.

Duanes-
burgh.

And that all that part of the said county of Albany, beginning at the northwest corner of the manor of Rensselaerwyck, and running thence along the west bounds of the said manor southerly to the northwest corner of lot number three hundred and forty nine; thence easterly along the tier of lots to the northeast corner of lot number three hundred and seventy two; then northerly to the northeast corner of lot number eight hundred and thirty two, then with a straight line till a course north twenty six degrees west intersects the Boza kill; then along the last mentioned course and the said kill or creek northwesterly as it runs to where the said manor line intersects the same; then westerly along the northerly bounds of said manor to the place of beginning, shall be and continue a town by the name of Bern.

Berne.

And that all that part of the said county of Albany, bounded northerly by Bern, westerly by the west bounds of the manor of Rensselaerwyck, southerly by the county of Green, and easterly by a line beginning at the place where the west bounds of Coeymans patent of confirmation intersects the south bounds of the manor of Rensselaerwyck; thence northerly along the west bounds of the said patent of confirmation to the northwest corner thereof; thence easterly along the north bounds thereof to the place where the continuation of the east line of the town of Bern intersects the same, thence along said line northerly to the southeast corner of Bern, shall be and continue a town by the name of Rensselaerville.

Rensselaer-
ville.

And that all that part of the said county of Albany, bounded westerly by Rensselaerville; southerly by the south bounds of the county, easterly by the east bounds of the county and northerly by the north bounds of Coeyman's patent of confirmation, shall be and continue a town by the name of Coeymans.

Coeymans.

And that all that part of the said county of Albany, bounded northerly by the south bounds of the city of Albany so far westerly as to intersect an east line from the junction of the Vlykill with the Normanskill, then west through the said junction to the east bounds of the town of Bern, westerly by Bern and Rensselaerville, southerly by Coeymans patent of confirmation and easterly by the east bounds of the county, shall be and continue a town by the name of Bethlehem.

Bethlehem

Watervliet. And that all that part of the said county of Albany, bounded south-
erly by the north bounds of Bethlehem as aforesaid, westerly by a line
drawn from the northwest corner of the said town of Bethelhem on a
course north twenty six degrees west until it intersects the Bozenkill;
then up along the said kill to the north bounds of the manor of Rens-
selaerwyck, northerly by the north bounds of the county, and easterly
by Hudson's river, including the islands in the same lying nearest the
west side thereof and excluding the city of Albany, shall be and con-
tinue a town by the name of Watervliet.

**Schoharie
county;
Schoharie.** And that all that part of the county of Schoharie, beginning at a
point in the west bounds of the county of Albany, two miles southerly
of the place where Foxes creek intersects said west bounds, thence
westerly to the place where Weaver's stony creek originally emptied
itself into the Schoharie creek, and thence westerly to the place where
the Cobuskill road crosses the Punchkill, thence with a straight line to
a point in the south bounds of the county of Montgomery five miles
westerly of Schoharie creek, thence easterly along the county of Mont-
gomery to Duanesburgh, thence along the westerly and southerly
bounds of Duanesburgh and the west bounds of the county of Albany
to the place of beginning shall be and continue a town by the name of
Schoharie.—

**Middle-
burgh.** And that all that part of the said county of Schoharie, beginning at
the place where the Cobleskill road crosses the Punchkill, thence with a
straight line to the northwest corner of a patent granted to Michael
Byrns and others, thence with a straight line to the west corner of the
house now or late of Jacob Best, near the head of the north branch of
the Westkill, thence continuing the same line to a tract of land called
Blenheim, thence easterly along the northerly bounds of Blenheim, until
it strikes Schoharie creek, thence easterly with a straight line to the
northeast corner of the dwelling house now or late of Moses Winters,
thence with the same line continued to the west bounds of the county
of Albany, thence northerly along the same to the southeast corner of
the town of Schoharie, thence along the southerly bounds thereof to
the place of beginning, shall be and continue a town by the name of
Middleburgh.—

Blenheim. And that all that part of the said county of Schoharie, beginning in
the middle of Schoharie creek, where the same is intersected by the
southerly bounds of the town of Middleburgh, thence along the north-
ern bounds of a tract of land called Blenheim to the northwest corner
thereof, thence continuing the same line to the county of Otsego,
thence along the easterly bounds of Otsego to the county of Delaware,
thence along the northerly bounds thereof to the middle of Schoharie
creek, thence northerly through the middle of said creek to the place
of beginning, shall be and continue a town by the name of Blenheim.—

Bristol. And that all that part of the said county of Schoharie, beginning at
the northeast corner of the town of Blenheim, thence southerly along
the easterly line of the said town to where the said creek is intersected
by the south bounds of the county of Schoharie, thence easterly along
the said south bounds to the county of Albany, thence northerly along
the same to the southeast corner of the town of Middleburgh, thence
westerly along the south bounds of the same to the place of beginning,
shall be and continue a town by the name of Bristol.

Cobleskill. And that all that part of the said county of Schoharie, beginning at
a point in the northern boundary line of the county of Schoharie, six
miles and an half westerly of the northwest corner of the town of Scho-
harie in the said county; thence southerly in a direct line to the west

corner of the dwelling house now or late of William Farris; thence in a straight line to the westerly corner of the dwelling house now or late of John Reddington; thence in a direct line to the westerly corner of the dwelling house now or late of Peter Bogardus, and thence in a straight line to the northerly corner of the dwelling house now or late of Joseph Webb; thence in a direct line to the westerly corner of the dwelling house now or late of Nicholas Smith; thence southwesterly to the nearest point in the division line between the counties of Schoharie and Otsego; thence southerly along the bounds of the county of Otsego, to the northwest corner of the town of Blenheim, thence easterly along the north bounds thereof to the southwest corner of the town of Middleburgh, thence northerly along the westerly bounds of the towns of Middleburgh and Schoharie to the north bounds of the county, and then along the same west to the place of beginning, shall be and continue a town by the name of Cobel's Kill.

And that all the residue or remaining part of the said county of Schoharie, shall be and continue a town by the name of Sharon.

And that all that part of the county of Montgomery, beginning in the Mohawk river at the point where it intersects the division line between the counties of Montgomery and Albany, and running from thence westerly along the said river until a small bridge in the main road near to Victor A. Putman's house shall be due north, thence running north six miles; thence running an easterly course so as to strike the west bounds of the county of Saratoga, six miles north of the river Mohawk; thence south, along the west bounds of the county of Saratoga and also along the west bounds of the county of Albany to the place of beginning, shall be and continue a town by the name of Amsterdam.

And that all that part of the said county of Montgomery, beginning at the northeast corner of Amsterdam, thence running westerly along the northerly bounds of the said town to the middle of the said boundary line, thence due north to the town of Northampton, thence easterly along the southerly bounds of the said town of Northampton to the east bounds of the county, thence south along the same to the place of beginning, shall be and continue a town by the name of Broadalbin.

And that all that part of the said county of Montgomery, beginning at the northeast corner of the town of Broadalbin at the place where the southerly bounds of Godfrey Shoe's farm is intersected by the division line between the counties of Saratoga and Montgomery, thence west as the magnetic needle now directs, to the division line between the town of Mayfield and the said town of Broadalbin; thence along the same northerly to the county of Clinton thence along the same easterly to the county of Essex; thence along the westerly bounds thereof, and the westerly bounds of the counties of Washington and Saratoga to the place of beginning, shall be and continue a town by the name of Northampton.

And that all that part of the said county of Montgomery, beginning at the southwest corner of the town of Broadalbin; thence running along the northerly bounds of the town of Amsterdam to the northwest corner thereof, thence due north to the north bounds of the State; thence easterly along the same to the bounds of the town of Northampton; then southerly along the same and the west bounds of Broadalbin to the place of beginning, shall be and continue a town by the name of Mayfield.

And that all that part of the said county of Montgomery, bounded easterly by Mayfield and Amsterdam, southerly by the Mohawk river, westerly by a line running from the hill called Anthony's nose, north to

- bounds of the manor of Rensselaerwyck, and westerly by the county of Albany, including such of the islands in Hudson's river as are nearest the east side thereof, shall be and continue a town by the name of Troy.

Schaghtikoke.

And that all that part of the said county of Rensselaer, bounded southerly by Troy, westerly by the bounds of the county, northerly by a line beginning at the mouth of Lewis's creek or kill, and running from thence south eighty four degrees east to Hosick river, and easterly and southeasterly by a line* running from thence down along Hosick river as it runs to Veile's or Toll's bridge, and then in a direct course to the westernmost corner of Michael Vander Crook's grist mill in Cooks-burgh, and from thence in the same direction to the manor of Rensselaerwyck, shall be and continue a town by the name of Schactikoke.—

Pittstown.

And that all that part of the said county of Rensselaer, bounded southerly by Troy and Petersburg, westerly by Schactikoke, northerly by Schactikoke, and the north bounds of the county of Rensselaer, and easterly by a line beginning at the distance of ten miles east from Hudson's river on the north line of Schactikoke continued east, and running from thence to a place in the north bounds of Petersburg, at the distance of thirteen miles from Hudson's river, shall be and continue a town by the name of Pitts town.

Hosick.

And that all that part of the said county of Rensselaer bounded easterly by the east bounds of this State, southerly by Petersburg, westerly by Pitts town, and northerly by the north bounds of the county of Rensselaer, shall be and continue a town by the name of Hosick.

Washington county; Cambridge

And that all that part of the county of Washington, bounded easterly by the east bounds of this State, southerly by the county of Rensselaer, westerly by the east bounds of Saraghtoga patent, and northerly by the river called Battenkill, shall be and continue a town by the name of Cambridge.

Easton.

And that all that part of the said county of Washington, bounded southerly by the county of Rensselaer, easterly by Cambridge, westerly by the bounds of the county, and northerly by Battenkill, shall be and continue a town by the name of Easton.

Argyle.

And that all that part of the said county of Washington, bounded southerly by Easton and Cambridge, westerly by the bounds of the county, northerly by a tract of land called Kingsbury, and a tract of land called the provincial patent, and easterly by the east bounds of a tract of land called the township of Argyle, shall be and continue a town by the name of Argyle.

Salem.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Cambridge, westerly by Argyle, and northerly by the north bounds of a tract of land called Turner's patent, and a line running from the northeast corner thereof, east to the east bounds of the county of Washington, shall be and continue a town by the name of Salem.—

Hebron.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Salem aforesaid, westerly by Argyle, and the said tract of land called the provincial patent, and northerly by an east and west line run from the southeast corner of a tract of land formerly granted to Lieutenant Byrn, shall be and continue a town by the name of Hebron.

Granville.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Hebron afore-

* So in original.

said, westerly by the said tract called the provincial patent, and a tract of land called the artillery patent, and northerly by a tract of land heretofore called Skeensborough, and a line running east from the southeast corner thereof to the east bounds of this State, shall be and continue a town by the name of Granville.

And that all that part of the said county of Washington, bounded easterly by the east bounds of this State, southerly by Granville aforesaid, westerly by the said tract of land heretofore called Skeensborough and a line running from the northeast corner thereof northeast to the north bounds of this State, and northerly by the north bounds of this State, shall be and continue a town by the name of Hampton.—

And that all that part of the said county of Washington, bounded easterly by Hampton, southerly by the south bounds of the tract of land heretofore called Skeensborough, westerly by the west bounds of the said tract and the waters of South-bay, and northerly by the north bounds of this State shall be and continue a town by the name of Whitehall.—

And that all that part of the said county of Washington, bounded easterly by the said tract of land called the Provincial patent, southerly by Argyle and Hudson's river, westerly by the west bounds of a tract of land called Kingsbury and northerly by the north bounds of the said tract of land called Kingsbury shall be and continue a town by the name of Kingsbury.

And that all that part of the said county of Washington, bounded southerly by Kingsbury and the Provincial patent, easterly by Granville Whitehall and the State of Vermont, northerly by Whitehall, and the north bounds of the said county of Washington, and westerly by Lake George, and a line beginning at the northwest corner of the town of Kingsbury, and running in the direction of Kingsbury west bounds till it strikes the waters of Lake George, shall be and continue a town by the name of Westfield.

And that all that part of the said county of Washington, commonly called and known by the name of the Provincial patent, lying easterly of the town of Kingsbury shall be and continue a town by the name of Hartford.

And that all that part of the said county of Washington, bounded easterly by Westfield and Kingsbury and separated from Westfield by a line beginning at the northwest corner of the town of Kingsbury, and running in the direction of Kingsbury west bounds till it strikes the waters of Lake George, westerly by Fairfield, northerly by Lake George, and a line running from the mouth of McAuley's creek, near the south end of said lake direct to the northeast corner of the town of Fairfield and southerly by the bounds of the county shall be and continue a town by the name of Queensbury.

And that all that part of the said county of Washington, beginning at the southwest corner of the lands granted by the ancient letters patent of the town of Queensbury, and running from thence north along the west line of the lands granted by the said letters patent, and continuing a north line until it intersects a west line from Fort George, at the south end of Lake George, thence west on the last mentioned line to the bounds of the county in the river Hudson, thence down the same following the bounds of the county to the place of beginning, shall be and continue a town by the name of Fairfield.

And that all that part of the said county of Washington, beginning at the mouth of McAuley's creek, thence up the said creek, until it shall have crossed the road that leads from Lake George to Scroon river, five

rods from the centre of the said road; thence westerly following the course of the said road at the distance of five rods from the center, two miles from the place of beginning; then crossing the road at right angles ten rods from the last mentioned corner; thence following the course of the said road at the distance of five rods from the centre to Scroon river; thence northerly on the east bank of Scroon river and lake to the south line of Essex county; thence east on the south line of Essex county to the east side of Lake George, thence southerly on the east bank of Lake George to the place of beginning, shall be and continue a town by the name of Bolton.

Chester. And that all that part of the said county of Washington, beginning on the east bank of Hudson's river where the south line of Essex county crosses the said river, thence due east on the south line of Essex county to the east side of Scroon lake to the west line of the town of Bolton; thence southerly on the west line of the said town of Bolton to the north corner of what was formerly called Hyde township; thence south fifty nine degrees west to the river Hudson; thence northerly on the east bank of the said river to the place of beginning, shall be and continue a town by the name of Chester.

Thurman. And that all that part of the said county of Washington, bounded southerly by Queensbury, Fairfield and the south bounds of the county, westerly by the west bounds of the county, northerly by the bounds of the county and by Chester and Bolton, shall be and continue a town by the name of Thurman.

Essex county; Crown Point. And that all that part of the county of Essex, bounded southerly by the south bounds of the said county of Essex, westerly by the west bounds of the said county, northerly by a line beginning at the north-east corner of a tract of land granted to Major Small and continued east to the east bounds of this State, and continued west along the north line of the said patent and in the same direction to the west bounds of the county and easterly by the east bounds of this State, shall be and continue a town by the name of Crownpoint.

Elizabeth town. And that all that part of the said county of Essex, bounded southerly by Crownpoint, west by the west bounds of the county, northerly by the south line of Judds patent continued easterly to the east bounds of this State, and westerly till it intersects the west bounds of the county aforesaid, and easterly by the east bounds of this State, shall be and continue a town by the name of Elizabeth town.

Willsborough. And that all that part of the said county of Essex, bounded southerly by Elizabeth Town, westerly by Jay, northerly by the north bounds of the said county and easterly by the east bounds of this State, shall be and continue a town by the name of Willsborough.

Jay. And that all that part of the said county of Essex, bounded easterly by a line beginning where the military line intersects the north bounds of Elizabeth Town, then north to the twelve mile tree; then north forty five degrees east to a line continued west from the south bounds of a tract of three thousand six hundred acres of land granted to Matthew Adgate, northerly by said line continued as aforesaid and the north bounds of the county, westerly by the west bounds of the county, and southerly by Elizabeth Town, shall be and continue a town by the name of Jay.

Clinton county; Peru. And that all that part of the county of Clinton, bounded northerly by a line beginning in the east bounds of this State on an east point from the southeast corner of a tract of land granted to John Friswell; from thence running west on the south line of the tract aforesaid to the southwest corner thereof; then north to Plattsburgh patent; then west on

the south line of the patent aforesaid and the same course westward to the west bounds of the county of Essex continued north, westerly by the last mentioned line, southerly by the bounds of the county, and easterly by the east bounds of this State, shall be and continue a town by the name of Peru.

And that all that part of the said county of Clinton, bounded southerly by Peru, westerly by the west bounds of the county, of Essex continued north northerly by the town of Chateauga and the north line of a patent granted to William Beekman & others, continued westward to the town of Chateauga and eastward to the east bounds of this State, and easterly by the east bounds of this State, shall be and continue a town by the name of Plattsburgh.

Plattsburgh.

And that all that part of the said county of Clinton, bounded southerly by Plattsburgh, easterly by the east bounds of this State, northerly by the north bounds of this State and westerly by the town of Chateauga, shall be and continue a town by the name of Champlain.

Champlain

And that all that part of the said county of Clinton, bounded northerly by the north bounds of this State, westerly by the west bounds of the county of Essex continued north, southerly by the south bounds of townships number eight and five in a tract of land in the said county formerly set apart for the use of the troops of the line of this State, lately serving in the army of the United States and said south bounds continued to the west bounds of the county and easterly by the east bounds of township number five aforesaid and of township number six in the said tract, shall be and continue a town by the name of Chateauga; all the remaining part of the said county of Clinton shall be annexed to and form part of the town of Lisbon.—

Lisbon.

And that all that part of the county of Saratoga, bounded northerly by Ball's town, and also by Anthony's kill, and a line from that part of the said kill where it comes out of the Round lake, to the southeast corner of Ball's town, easterly by the east bounds of the county, southerly by the middle of the Mohawk river and its most northerly sprout, westerly by the west bounds of the county, and a line running from the south end of the Long lake south fifty three degrees west along the established bounds of Ballstown, to the bounds of Albany county, shall be and continue a town by the name of Halfmoon.

Saratoga county:
Halfmoon

And that all that part of the said county of Saratoga bounded southerly by Halfmoon, easterly by the east bounds of the county, northerly by the north bounds of lot number seventeen, in Saraghtoga patent continued in the same direction west to the town of Milton, and westerly by Ballstown and Milton, shall be and continue a town by the name of Stillwater.

Stillwater.

And that all that part of the said county of Saratoga, bounded northerly by Northumberland and Greenfield, easterly by the county of Washington, southerly by Stillwater and westerly by a north line continued from the northeast corner of Ballstown to the town of Greenfield, shall be and continue a town by the name of Saraghtoga.

Saratoga.

And that all that part of the said county of Saratoga, beginning at the southeast corner of lot number seven, in the seventeenth allotment of the patent of Kayaderosseras; thence running north, along the east bounds thereof, to the southerly bounds of the twenty second allotment of the said patent; thence northeasterly, along the same to the southwest corner of the twenty third allotment of the said patent; thence northerly along the west bounds thereof, to the southwest corner of the twenty fifth allotment of the said patent, from thence north to Hudson's river, thence along the west bounds of the county of Washington to the

Greenfield.

north bounds of the said county of Saratoga; thence west to the north-east corner of the town of Providence in the said county of Saratoga; thence south, on the east line of the same, to the north bounds of the sixteenth allotment, of the patent aforesaid, and from thence easterly along the same, to the place of beginning, shall be and continue a town by the name of Greenfield.—

Northumberland.

And that all that part of the said county of Saratoga, beginning on Hudson's river, at the northeast corner of the tenth general allotment of the patent of Kayaderosseras, from thence along the north bounds thereof and the north bounds of the ninth and sixteenth allotments of the said patent west to the southeast corner of the town of Greenfield, thence northerly along the east bounds thereof to the middle of Hudson's river, thence down the said river on the bounds of the county of Washington to a point due east from the place of beginning, thence west to the place of beginning, shall be and continue a town by the name of Northumberland.—

Milton.

And that all that part of the said county of Saratoga, bounded northerly by Greenfield, easterly by Saraghtoga, southerly by a line beginning in the southeast corner of the fourteenth allotment, in the general division of the patent of Kayaderosseras and running thence west along the south bounds of the said allotment to the middle of the south bounds of lot number nine in the subdivision of the allotment aforesaid, and westerly by a line running from thence due north to the southwest corner of the town of Greenfield, shall be and continue a town by the name of Milton.

Providence

And that all that part of the said county of Saratoga, beginning at the northwest corner of the town of Milton, and running thence a west course on a parallel line, with the north bounds of the town of Charlton, to the county of Montgomery, and thence north on the east line of the county of Montgomery to the north bounds of the county of Saratoga, and thence east on the said north bounds, to a line running north from the northeast corner of Milton, thence south along said line to the place of beginning shall be and continue a town by the name of Providence.

Galway.

And that all that part of the said county of Saratoga, bounded easterly by Greenfield, southerly by a line running from the southwest corner of Milton, west along the south bounds of the said fourteenth allotment to the line of the county of Montgomery, westerly by Montgomery county and northerly by Providence, shall be and continue a town by the name of Galway.—

Charlton.

And that all that part of the said county of Saratoga, bounded by a line beginning at the southwest corner of the town of Galway, and running thence south along the east bounds of the county of Montgomery to the north bounds of the county of Albany; thence easterly along the north bounds of the county of Albany until a north line as the needle pointed in the year one thousand seven hundred and ninety five will strike the southwest corner of the tract of land commonly called, the five mile square, thence northerly to the southwest corner of the said five mile square; thence along the west bounds of the said five mile square to the south bounds of the town of Milton; thence along the south bounds of Milton and Galway to the place of beginning, shall be and continue a town by the name of Charlton.

Ballston.

And that all that part of the said county of Saratoga, bounded westerly by Charlton, southerly by the north bounds of the county of Albany and by Halfmoon, easterly by Stillwater, and northerly by Milton, shall be and continue a town by the name of Balls'-town.

And that all that part of the county of Albany, bounded northerly by the county of Saratoga, easterly by Halfmoon and Watervliet, southerly by the north bounds of the manor of Rensselaerwyck, and westerly by the county of Montgomery and a line running from that part of the Mohawk river where the line of the county of Montgomery comes to the said river, south to the manor of Rensselaerwick, excepting thereout the tract of land called Corey's Bush and the church land adjoining the patent of Schenectady on the south side of the Mohawk river, shall be and continue a town by the name of Schenectady. Albany county; Schenectady.

And that all that part of the said county of Albany, known by the name of Corey's Bush, together with the church land adjoining the patent of Schenectady on the south side of the Mohawk river, shall be and continue a town by the name of Prince town. Princetown.

And that all that part of the said county of Albany, bounded on the north by the county of Montgomery, on the west by the Schoharie river and the Schoharie patent, on the south by the north bounds of lands granted to Johannis Lawyer and others, and the south bounds of lands granted to Captain Jonathan Brewer and the manor of Rensselaerwyck, and on the east by Prince town, shall be and continue a town by the name of Duanesburgh. Duanesburgh.

And that all that part of the said county of Albany, beginning at the northwest corner of the manor of Rensselaerwyck, and running thence along the west bounds of the said manor southerly to the northwest corner of lot number three hundred and forty nine; thence easterly along the tier of lots to the northeast corner of lot number three hundred and seventy two; then northerly to the northeast corner of lot number eight hundred and thirty two, then with a straight line till a course north twenty six degrees west intersects the Boza kill; then along the last mentioned course and the said kill or creek northwesterly as it runs to where the said manor line intersects the same; then westerly along the northerly bounds of said manor to the place of beginning, shall be and continue a town by the name of Bern. Berne.

And that all that part of the said county of Albany, bounded northerly by Bern, westerly by the west bounds of the manor of Rensselaerwyck, southerly by the county of Green, and easterly by a line beginning at the place where the west bounds of Coeymans patent of confirmation intersects the south bounds of the manor of Rensselaerwyck; thence northerly along the west bounds of the said patent of confirmation to the northwest corner thereof; thence easterly along the north bounds thereof to the place where the continuation of the east line of the town of Bern intersects the same, thence along said line northerly to the southeast corner of Bern, shall be and continue a town by the name of Rensselaerville. Rensselaerville.

And that all that part of the said county of Albany, bounded westerly by Rensselaerville; southerly by the south bounds of the county, easterly by the east bounds of the county and northerly by the north bounds of Coeymans patent of confirmation, shall be and continue a town by the name of Coeymans. Coeymans.

And that all that part of the said county of Albany, bounded northerly by the south bounds of the city of Albany so far westerly as to intersect an east line from the junction of the Vlykill with the Normanskill, then west through the said junction to the east bounds of the town of Bern, westerly by Bern and Rensselaerville, southerly by Coeymans patent of confirmation and easterly by the east bounds of the county, shall be and continue a town by the name of Bethlehem. Bethlehem.

Watervliet. And that all that part of the said county of Albany, bounded southerly by the north bounds of Bethlehem as aforesaid, westerly by a line drawn from the northwest corner of the said town of Bethelhem on a course north twenty six degrees west until it intersects the Bozenkill; then up along the said kill to the north bounds of the manor of Rensselaerwyck, northerly by the north bounds of the county, and easterly by Hudson's river, including the islands in the same lying nearest the west side thereof and excluding the city of Albany, shall be and continue a town by the name of Watervliet.

Schoharie county; Schoharie. And that all that part of the county of Schoharie, beginning at a point in the west bounds of the county of Albany, two miles southerly of the place where Foxes creek intersects said west bounds, thence westerly to the place where Weaver's stony creek originally emptied itself into the Schoharie creek, and thence westerly to the place where the Cobuskill road crosses the Punchkill, thence with a straight line to a point in the south bounds of the county of Montgomery five miles westerly of Schoharie creek, thence easterly along the county of Montgomery to Duanesburgh, thence along the westerly and southerly bounds of Duanesburgh and the west bounds of the county of Albany to the place of beginning shall be and continue a town by the name of Schoharie.—

Middleburgh. And that all that part of the said county of Schoharie, beginning at the place where the Cobleskill road crosses the Punchkill, thence with a straight line to the northwest corner of a patent granted to Michael Byrns and others, thence with a straight line to the west corner of the house now or late of Jacob Best, near the head of the north branch of the Westkill, thence continuing the same line to a tract of land called Blenheim, thence easterly along the northerly bounds of Blenheim, until it strikes Schoharie creek, thence easterly with a straight line to the northeast corner of the dwelling house now or late of Moses Winters, thence with the same line continued to the west bounds of the county of Albany, thence northerly along the same to the southeast corner of the town of Schoharie, thence along the southerly bounds thereof to the place of beginning, shall be and continue a town by the name of Middleburgh.—

Blenheim. And that all that part of the said county of Schoharie, beginning in the middle of Schoharie creek, where the same is intersected by the southerly bounds of the town of Middleburgh, thence along the northern bounds of a tract of land called Blenheim to the northwest corner thereof, thence continuing the same line to the county of Otsego, thence along the easterly bounds of Otsego to the county of Delaware, thence along the northerly bounds thereof to the middle of Schoharie creek, thence northerly through the middle of said creek to the place of beginning, shall be and continue a town by the name of Blenheim.—

Bristol. And that all that part of the said county of Schoharie, beginning at the northeast corner of the town of Blenheim, thence southerly along the easterly line of the said town to where the said creek is intersected by the south bounds of the county of Schoharie, thence easterly along the said south bounds to the county of Albany, thence northerly along the same to the southeast corner of the town of Middleburgh, thence westerly along the south bounds of the same to the place of beginning, shall be and continue a town by the name of Bristol.

Cobleskill. And that all that part of the said county of Schoharie, beginning at a point in the northern boundary line of the county of Schoharie, six miles and an half westerly of the northwest corner of the town of Schoharie in the said county; thence southerly in a direct line to the west

corner of the dwelling house now or late of William Farris; thence in a straight line to the westerly corner of the dwelling house now or late of John Reddington; thence in a direct line to the westerly corner of the dwelling house now or late of Peter Bogardus, and thence in a straight line to the northerly corner of the dwelling house now or late of Joseph Webb; thence in a direct line to the westerly corner of the dwelling house now or late of Nicholas Smith; thence southwesterly to the nearest point in the division line between the counties of Schoharie and Otsego; thence southerly along the bounds of the county of Otsego, to the northwest corner of the town of Blenheim, thence easterly along the north bounds thereof to the southwest corner of the town of Middleburgh, thence northerly along the westerly bounds of the towns of Middleburgh and Schoharie to the north bounds of the county, and then along the same west to the place of beginning, shall be and continue a town by the name of Cobel's Kill.

And that all the residue or remaining part of the said county of Schoharie, shall be and continue a town by the name of Sharon. Sharon.

And that all that part of the county of Montgomery, beginning in the Mohawk river at the point where it intersects the division line between the counties of Montgomery and Albany, and running from thence westerly along the said river until a small bridge in the main road near to Victor A. Putman's house shall be due north, thence running north six miles; thence running an easterly course so as to strike the west bounds of the county of Saratoga, six miles north of the river Mohawk; thence south, along the west bounds of the county of Saratoga and also along the west bounds of the county of Albany to the place of beginning, shall be and continue a town by the name of Amsterdam. Montgomery county; Amsterdam.

And that all that part of the said county of Montgomery, beginning at the northeast corner of Amsterdam, thence running westerly along the northerly bounds of the said town to the middle of the said boundary line, thence due north to the town of Northampton, thence easterly along the southerly bounds of the said town of Northampton to the east bounds of the county, thence south along the same to the place of beginning, shall be and continue a town by the name of Broadalbin. Broadalbin.

And that all that part of the said county of Montgomery, beginning at the northeast corner of the town of Broadalbin at the place where the southerly bounds of Godfrey Shoe's farm is intersected by the division line between the counties of Saratoga and Montgomery, thence west as the magnetic needle now directs, to the division line between the town of Mayfield and the said town of Broadalbin; thence along the same northerly to the county of Clinton thence along the same easterly to the county of Essex; thence along the westerly bounds thereof, and the westerly bounds of the counties of Washington and Saratoga to the place of beginning, shall be and continue a town by the name of Northampton. Northampton.

And that all that part of the said county of Montgomery, beginning at the southwest corner of the town of Broadalbin; thence running along the northerly bounds of the town of Amsterdam to the northwest corner thereof, thence due north to the north bounds of the State; thence easterly along the same to the bounds of the town of Northampton; then southerly along the same and the west bounds of Broadalbin to the place of beginning, shall be and continue a town by the name of Mayfield. Mayfield.

And that all that part of the said county of Montgomery, bounded easterly by May field and Amsterdam, southerly by the Mohawk river, westerly by a line running from the hill called Anthony's nose, north to

the county of Clinton, and northerly by the county of Clinton, shall be and continue a town by the name of Johnstown.

Salisbury. And that all that part of the said county of Montgomery, bounded south by the town of Manheim, west by the county of Herkimer, north by the county of Herkimer and the county of Clinton, and east by the East Canada creek and a line running north to the county of Clinton from the place where the south bounds of Jersey field intersect the said creek, shall be and continue a town by the name of Salisbury.

Manheim. And that all that part of the said county of Montgomery, beginning on the west side of the East Canada creek, where it empties into the Mohawk river; thence westerly up said river to the division line between the counties of Montgomery and Herkimer; thence north along the same until an east line or course strikes the northwest corner of a large lot number fourteen in a tract of land called Glen's purchase; thence easterly to the northeast corner of Glen's purchase; thence east to the said East Canada creek; thence southerly along the same to the place of beginning, shall be and continue a town by the name of Manheim.

Palatine. And that all that part of the said county of Montgomery, bounded southerly by the Mohawk river, westerly by Manheim and Salisbury, northerly by the county of Clinton, and easterly by Johnstown, shall be and continue a town by the name of Palatine.

Minden. And that all that part of the said county of Montgomery, beginning at the Mohawk river where the Otsquago creek falls into the river, from thence up the middle of the said creek to its junction with the Otsquene creek, from thence with a straight line to the northeast corner of Springfield patent in the division line of the counties of Otsego and Montgomery, from thence along said line westerly to the division line of the counties of Herkimer and Montgomery; then along the same northerly to the Mohawk river; thence down along the said river to the place of beginning, shall be and continue a town by the name of Minden.

Canajoharie. And that all that part of the said county of Montgomery, bounded northerly by the Mohawk river, westerly by Minden, southerly by the south bounds of the county, and easterly by a line running from the hill called Anthony's nose, south until it strikes the south bounds of the county, shall be and continue a town by the name of Canajoharie.

Charleston. And that all that part of the said county of Montgomery, bounded westerly by Canajoharie, northerly by the Mohawk river, easterly by the middle of Schoharie creek, and southerly by the south bounds of the county, shall be and continue a town by the name of Charleston.

Florida. And that all that part of the said county of Montgomery, bounded westerly by Charleston, northerly by the Mohawk river, easterly and southerly by the bounds of the county, shall be and continue a town by the name of Florida.

Herkimer county; German Flatts. And that all that part of the county of Herkimer, bounded northerly by the Mohawk river, easterly by the east bounds of the county, southerly by Warren, and westerly by Frankfort, shall be and continue a town by the name of German Flatts.

Frankfort. And that all that part of the said county of Herkimer, beginning at the south side of the Mohawk river, in the middle of the mouth of a small stream which enters the said river a few rods east of the house now or late of William Dygert, which stream is known by the name of Dygert's mill creek, and running from thence south thirty degrees west, until it meets the southern line of a tract of land granted to Coenrad Frank and others; thence westerly along the said southern line, to the southwest corner of the said grant; thence westerly with a straight line to the southeast corner of Whitestown in the west bounds of the

county; thence northerly along the the same to the Mohawk river; thence down and along the river to the place of beginning, shall be and continue a town by the name of Frankfort.

And that all that part of the said county of Herkemer, bounded northerly by Frankfort, westerly and southerly by the bounds of the county and easterly by a line beginning at the southeast corner of the town of Frankfort and running thence south thirty degrees west to the south bounds of the county, shall be and continue a town by the name of Litchfield.

And that all that part of the said county of Herkemer, bounded westerly by Litchfield, southerly and easterly by the bounds of the county and northerly by a line beginning at the northeast corner of the town of Litchfield, and running thence easterly along the southern line of the tract of land granted to Coenrad Frank and others, until it meets the southwest corner of a tract of land granted to Guy Johnson; thence easterly along the southern bounds thereof to the east bounds of the county, shall be and continue a town by the name of Warren.

And that all that part of the said county of Herkemer, bounded southwesterly by the Mohawk river, northwesterly by the bounds of the county, northeasterly and easterly by the West Canada creek and a line running from the Little Falls in the same creek southerly on a direct line to the northeast corner of a tract of land called Kaft's patent; thence along the eastern line of the said tract of land to the Mohawk river, shall be and continue a town by the name of Schuyler.

And that all that part of the said county of Herkemer, bounded easterly by the bounds of the county, southerly by the Mohawk river, westerly by Schuyler, and northerly by a line beginning on the middle line in Glen's purchase on the division line of Montgomery and Herkemer counties, and running thence westerly along the said middle line of Glen's purchase to the southwest corner of lot number seven; thence northwardly to the northeast corner of lot number five in the said purchase, from thence westerly along the line between lot number five and lot number six in a direct course to the West Canada creek, shall be and continue a town by the name of Herkimer.

And that all that part of the said county of Herkemer, bounded southerly by Herkemer, easterly by the east bounds of the county, westerly by the West Canada creek and northerly by a line beginning at the northwest corner of lot number thirty seven, part of the second line of lots in the second allotment of a tract commonly called the royal grant, which corner intersects the said west Canada creek, and running thence east to the east bounds of the county, shall be and continue a town by the name of Fairfield.

And that all that part of the said county of Herkemer, bounded southerly by Fairfield, easterly and westerly by the bounds of the county, and northerly by the county of Clinton, shall be and continue a town by the name of Norway.

And that all that part of the county of Oneida, bounded southerly, easterly and westerly by the bounds of the county, and northerly by a line running due east from the northeast corner of the twentieth of the twenty townships as surveyed and laid out by the surveyor general of this State to the east bounds of the county and west from the same corner on the north line of the said twentieth township to the west bounds of the county, shall be and continue a town by the name of Bridgewater.

And that all that part of the said county of Oneida, bounded southerly by the Mohawk river, westerly by a line beginning at the mouth of the Nine Mile creek, on the Mohawk river, and running from the mouth

of the said creek on a direct line four miles towards a point in the east line of a tract of land granted to the Baron De Steuben, one mile and an half south of the northwest corner of Service's patent so called, northerly by Trenton and easterly by the east bounds of the county, shall be and continue a town by the name of Deerfield.

Trenton.

And that all that part of the said county of Oneida, bounded westerly by the town of Steuben and the west line of Deerfield continued to the tract of land granted to the Baron De Steuben, northerly by a line parallel with the north bounds of Service's patent to the West Canada creek, easterly by the east bounds of the county and a line running from the northwest corner of lot number fifty five in Gage's patent so called, on the west line of said patent, southerly to the northwesterly corner of lot number eighteen in said patent, and southerly by a straight line drawn thence to the place of beginning, shall be and continue a town by the name of Trenton.

Paris.

And that all that part of the said county of Oneida, bounded southerly by Bridgewater and the south bounds of the county, westerly by the east line of the Oneida reservation, northerly by a line beginning on the east line of the Oneida reservation at the southerly corner of the town of Westmoreland, and running thence northeasterly along the line of the last mentioned town to a bridge called Stillman's bridge on the Oriscany creek, thence running southeasterly to the dwelling house, now or late of Joseph Fairwell, being on lot number eighty in the seventh division of Cox's patent, not including the said house, then southerly in a direct line until it meets the road called the New Hartford road, where the said road crosses the creek a few yards westerly from the dwelling house now or late of Samuel Wells, thence southerly on a direct line to the southwest corner of lot number seven in the seventh division of Cox's patent aforesaid, thence a direct east course to the east bounds of the county, and easterly by the east bounds of the county, shall be and continue a town by the name of Paris.

Whitestown.

And that all that part of the said county of Oneida, bounded southerly by Paris, easterly by the east bounds of the county, northerly by the Mohawk river, and part of the south bounds of the town of Rome, and westerly by Paris and Westmoreland, shall be and continue a town by the name of Whitestown.

Remsen.

And that all that part of the said county of Oneida, bounded easterly by the east bounds of the county, northerly by the north bounds of this State, southerly by Trenton and westerly by a line running from the northwest corner of the town of Trenton along the east bounds of a tract of land granted to Baron De Steuben, to the northeast corner thereof, and thence northerly to the county of Clinton, shall be and continue a town by the name of Remsen.—

Floyd

And that all that part of the said county of Oneida, beginning at the northwest corner of great lot number thirty six in Fonda's patent and running along the west bounds of said lot, and lots number sixty, sixty three and seventy one, in said Fonda's patent, and the same course continued, till it strikes the Mohawk river, thence down the said river to the mouth of the Nine Mile creek, thence northerly along the west bounds of Deerfield and Trenton, until a west line shall intersect the northeast corner of great lot number forty one in said Fonda's patent, then along said line, and the north bounds of lot number forty one, and lots number forty, thirty nine, thirty eight, thirty seven and thirty six in said Fonda's patent, to the place of beginning, shall be and continue a town by the name of Floyd.

And that all that part of the said county of Oneida, within the limits **Steuben.** and bounds following, viz: Beginning at the southwest corner of lot twenty seven in Fonda's purchase, joining the town of Floyd, thence running northerly along the westerly line of said lot and continued in that direction to the north side of a tract of land now or late belonging to John Lansing, thence easterly along the northerly side of said Lansing's land, and continued in that direction to the town of Remsen, thence southerly on the west line of Remsen and Trenton to the northeast corner of the town of Floyd, thence westerly on the line of said town to the place of beginning shall be and continue a town by the name of Steuben.

And that all that part of the said county of Oneida, bounded easterly **Western.** by Steuben, northerly by a line running westerly from the northwest corner of Steuben along the northerly line of John Lansing's land, and continued in the same direction until it strikes Fish creek, thence down said creek to the north line of Rome, thence easterly along said line to the place of beginning, shall be and continue a town by the name of Western.—

And that all that part of the said county of Oneida, bounded easterly **Leyden.** by Remsen, southerly by Steuben and Western, westerly by Camden, Turin, Lowville, Champion, Watertown and the west bounds of the State, and northerly by the county of Clinton, shall be and continue a town by the name of Leyden.—

And that all that part of the said county of Oneida, bounded easterly **Rome.** by Floyd, northerly by a line to begin at the northwest corner of Floyd and running a direct course along the north bounds of great lots number thirty five, thirty four, thirty three, thirty one, thirty, twenty nine, and eighty three in Fonda's patent to Canada creek, thence down and along the same to its junction with Wood creek, thence southeasterly along the line of the Oneida reservation, till it strikes a line running due west from the mouth of the Nine Mile creek; then easterly along that line to the mouth of the Nine Mile creek, together with all that part of township number two in Scriba's patent lying east of Fish creek and south of Western, shall be and continue a town by the name of Rome.

And that all that part of the said county of Oneida, included within **Camden.** the following bounds to wit, beginning at the northwest corner of township number four, in George Scriba's patent; thence southerly and easterly on the line between townships number four and five, six and seven, ten and eleven continued to the south shore of the Oneida lake; thence easterly along the southerly side of the said lake to the mouth of Wood creek; thence up the said creek to where the same is intersected by the line of division between townships number two and nine; thence north on the line between the townships number two and nine, until the same is intersected by the main branch of Fish creek; thence up said creek, following the said main branch thereof, to the north bounds of Scriba's patent; thence westerly on the north bounds of said patent to the place of beginning, shall be and continue a town by the name of Camden.

And that all that part of the said county of Oneida, known and distinguished by township number twelve, in a tract or patent of land, **Redfield.** commonly called Constables tract, which said township is bounded northerly by township number seven, easterly by number thirteen, westerly by number eleven and southerly by the north line of Scriba's patent, so called, shall be and continue a town by the name of Redfield.

And that all that part of the said county of Oneida, known and distinguished by townships number one, two and three, in a tract of land **Watertown**

belonging to Henry Champion and others, which said townships are bounded northerly by the Black river, westerly by Hungry bay, so called, southerly by townships number six, seven, eight and nine, and easterly by township number four, all in the same tract, shall be and continue a town by the name of Water town.

Champion. And that all that part of the said county of Oneida, distinguished by township number four, and so much of township number five in the tract aforesaid, as is situated westerly of Deer creek, so called, which parcels are bounded northerly by the said Black river, easterly by the said Deer creek, westerly by the said township number three, and southerly by the said township number nine and township number ten in the same tract, shall be and continue a town by the name of Champion.

Lowville. And that all that part of the said county of Oneida, distinguished by township number eleven, and so much of the said township number five, in the tract aforesaid, as is situated easterly of the said Deer creek; which said parcels are bounded northeasterly by the said Black river, northwesterly by the said Deer creek, and the said township number ten, and southerly by townships number four and five, in a tract of land belonging to William Constable and others, shall be and continue a town by the name of Lowville.

Turin And that all that part of the said county of Oneida, bounded as follows, to wit, beginning at the most northerly corner of a tract of twenty five thousand acres of land belonging to Lemuel Storrs and others, at a maple tree standing upon the bank of the said Black river; thence running south thirty seven degrees and thirty minutes west, along the northwesterly line of said tract to the northerly line of Scriba's patent; thence westerly along the southerly line of the said Constable's tract till the same is intersected by the division line between the said township number twelve and township number thirteen in the same tract, thence northerly in the said division line and the division line between townships number seven and eight, two and three to the northerly extremity thereof; thence easterly along the northerly lines of townships number three, four and five to the said Black river; thence southeasterly up the waters thereof to the place of beginning, shall be and continue a town by the name of Turin.

Mexico. And that all that part of the said county of Oneida, bounded easterly by Camden, Redfield, Turin and Lowville, northerly by Watertown, Champion and a line drawn west from the mouth of Black river, westerly by the bounds of the county and southerly by the bounds of the county, shall be and continue a town by the name of Mexico.

Westmoreland. And that all that part of the said county of Oneida, bounded westerly by the west bounds of the county, southerly by the town of Augusta, northerly by Rome and Camden, and easterly by a line beginning at the southeasterly corner of a tract of land granted to Abraham Wemple and running thence at right angles with the old line of property, southwesterly to Augusta and northeasterly until it meets the Oriscany creek; thence down the said creek to the south bounds of the Oriscany patent; thence northwesterly parallel with the old line of property to Rome, shall be and continue a town by the name of Westmoreland.

Augusta. And that all that part of the said county of Oneida, bounded westerly and southerly by the county of Chenango, easterly by Paris and Westmoreland and northerly by the southernmost great Genesee road, shall be and continue a town by the name of Augusta.—

Otsego county; Springfield And that all that part of the county of Otsego, beginning on the east bank of Lake Otsego, at the southwest corner of a patent granted to John Groesbeck and others, and running easterly and northerly along

the bounds of the said patent, to the northeast corner thereof, then westerly along the north bounds thereof, and the same line continued to the county of Herkemer, then southerly along the east bounds of the said county and the east bounds of the town of Otsego, to Lake Otsego, then easterly and southerly along the waters thereof, to the place of beginning, shall be and continue a town by the name of Springfield.—

And that all that part of the said county of Otsego, beginning at the mouth of Cherry Valley creek, and running due east to the east bounds of a patent granted to Volkert Oothoudt and others, then northerly along the bounds thereof to the south bounds of great lot number four in the said patent, then westerly along the bounds thereof to the west bounds of the said patent, then northerly along the bounds of the said patent to the northwest corner thereof, then by a line to the southwest corner of a patent known by the name of Beaverdam, then northerly along the west bounds thereof to a patent granted to John Lindsey, then westerly and northerly along the bounds thereof to the town of Springfield then westerly along the bounds thereof to Lake Otsego, then northerly and westerly along the town of Springfield to the town of Otsego, then southerly along the town of Otsego and the town of Milford to the place of beginning, shall be and continue a town by the name of Middlefield.

And that all that part of the said county of Otsego, beginning at the mouth of the Adequatangie, or Charlotte creek, and running along the northerly bounds of the county of Delaware to the county of Schoharie then northerly along the bounds thereof to the second allotment of the tract of land called the Belvidere patent, then west along the south bounds of the said allotment to a patent granted to Alexander McGee, and others, then northerly along the east bounds thereof to the northeast corner of lot number two in the said patent, then westerly along the north bounds thereof and the same line continued to the town of Middlefield, then southerly and westerly along the east and southerly bounds thereof to the town of Milford, then southerly along the same to the place of beginning, shall be and continue a town by the name of Worcester.

And that all that part of the said county of Otsego, bounded easterly by the bounds of the county, southerly by Worcester, westerly by Middlefield and Springfield and northerly by the bounds of the county, shall be and continue a town by the name of Cherry Valley.—

And that all that part of the said county of Otsego, contained within the following bounds, to wit, beginning at the southeast corner of John Christopher Hartwick's patent, thence along the south and west bounds thereof to the northwest corner of the same and from thence north along the east line of Smith's tract to a beach tree marked I R B No. 47, thence east along an old line of marked trees thirty three chains to a beach tree marked I. R. B. No. 47. 1772 W. C. 1791, thence north seven degrees east along the west line of a tract of land, called the twelve thousand acre tract, to the south line of Colden's patent thence east to the southeast corner thereof, thence north to the east line thereof to the southeast corner of Schuyler's patent, thence along the easterly boundary of said patent to the county of Herkemer, thence east by the county of Herkemer to Springfield, thence southerly by the west bounds of Springfield and Middlefield, to the place of beginning, shall be and continue a town by the name of Otsego.—

And that all that part of the said county of Otsego, beginning at the northwest corner of the town of Otsego, and running westerly along the north bounds of the county to the northwest corner of lot number seventy eight, in Schuyler's patent, thence southerly to the southwest

corner of lot number eighty, thence easterly to the southeast corner of lot number three, thence northerly on the east line of said town to the place of beginning, shall be and continue a town by the name of Richfield.—

Exeter.

And that all that part of the said county of Otsego, beginning at the northeast corner of lot number four in the patent granted to David Schuyler and others, thence running westerly to the northwest corner of lot number fifty three, thence southerly to the southwest corner of lot number fifty six, thence on the south line of said Schuyler's patent, to the southeast corner thereof, thence northerly on the east line of said town to the place of beginning shall be and continue a town by the name of Exeter.—

Plainfield.

And that all that part of the said county of Otsego, bounded westerly and northerly by the bounds of the county, easterly by Richfield and Exeter and southerly by the north boundaries of Colden's patent and the same continued to the Unadilla river, shall be and continue a town by the name of Plainfield.

Burlington

And that all that part of the said county of Otsego, bounded southerly by Pittsfield, westerly by the west bounds of the county, northerly by Exeter and Plainfield, and easterly by Otsego, shall be and continue a town by the name of Burlington.

Pittsfield.

And that all that part of the said county of Otsego, contained within the following boundaries, to wit, beginning at the southeast corner of Smith's patent, on the north line of the town of Otsego; thence westerly on said line and the north line of the town of Butternuts to the Unadilla river; thence up said river about six miles on a straight line to a tree marked ADT; thence north eighty eight degrees east to the west line of Veree's patent; thence northerly to the northwest corner thereof; thence along the north line of said patent and the lands formerly owned by John Johnson, and the same line continued to the west line of the town of Otsego; thence southerly on said line to the place of beginning, shall be and continue a town by the name of Pittsfield.

Milford.

And that all that part of the said county of Otsego, bounded westerly by lots number seventy, forty one, forty two, forty three, forty four, forty five, forty six and forty seven, in a tract of land granted to Charles Read, Thomas Wharton and others, commonly called the Otego patent, and the eastern boundary line of the said lots continued southerly to the Susquehannah river, southerly and easterly by the Susquehannah river and northerly by the town of Otsego, shall be and continue a town by the name of Milford.

Otego.

And that all that part of the said county of Otsego, bounded northerly by the towns of Otsego and Pittsfield, westerly by the east bounds of lots number one, two, three, four, five, six, seven and eight, in the Otego patent to the southeast corner of the last mentioned lot; thence along the northerly bounds of lots number eighteen and twenty one, in the Otego patent, to the west branch of the Otsdawaw creek; thence down the same as it runs to the Susquehannah river and Milford, shall be and continue a town by the name of Otego.

Butternuts

And that all that part of the said county of Otsego, bounded easterly by Otego, northerly by a line continued from the south bounds of a tract of land granted to George Croghan in the direction thereof to the Unadilla river, westerly by the west bounds of the county, and southerly by a line beginning at the southwest corner of the town of Otego, and running thence west along the south bounds of lot number eight, in the Otego patent, to the east bounds of a tract granted to Lewis and Richard Morris, commonly called Morris's patent; thence northerly to

the northeast corner of lot number seventy, in the patent last mentioned; thence westerly along the south bounds of lots number sixty three, sixty two, sixty one, sixty, fifty nine and fifty eight, in Morris's patent, to a tract of land granted to Clotworthy Upton, commonly called Upton's patent, and the same line continued westerly to the Butternut creek, and thence down the same to the Unadilla river, shall be and continue a town by the name of Butternuts.

And that all that part of the said county of Otsego, bounded northerly by the towns of Butternuts and Otego; east by Otego and the river Susquehannah; southerly by the same, and westerly by the Unadilla river, shall be and continue a town by the name of Unadilla.

And that all that part of the county of Chenango, bounded easterly and northerly by the bounds of the county; westerly by the west bounds of township number twenty being one of twenty townships as surveyed and laid out by the surveyor general of this State, and southerly by the south bounds of the said township number twenty, shall be and continue a town by the name of Sangerfield.

And that all that part of the said county of Chenango, comprehending the second, third, fifth and sixth of the twenty townships aforesaid, shall be and continue a town by the name of Hamilton.

And that all that part of the said county of Chenango, comprehending the eighteenth and nineteenth of the twenty townships aforesaid, and also all that part of the seventeenth of the same townships, lying north of a line running from the south bounds of township number nine in the same direction to the east bounds of the county, shall be and continue a town by the name of Brookfield.

And that all that part of the said county of Chenango, comprehending the eighth and ninth of the said twenty townships, shall be and continue a town by the name of Sherburne.

And that all that part of the said county of Chenango, bounded northerly by Cazenovia, west by the west bounds of the county; southerly by a line beginning at the southwest corner of a tract of land, commonly called De Ruyter township, thence easterly to the west line of the twenty townships; thence north to the southwest corner of township number seven, thence east to the southeast corner thereof, and east by Sherburne and Hamilton, shall be and continue a town by the name of De Ruyter.

And that all that part of the said county of Chenango, beginning at the southwest corner of the road township, thence east along the south boundary thereof to the west line of township number six, thence north to the south corner of township number one, thence east along the south bounds thereof to the southeast corner thereof, thence north along the division line of townships number one and two to the north boundary line of the twenty towns, thence easterly along the said boundary line to the east bounds of the county of Chenango, thence northerly, westerly and southerly along the boundary line of the counties of Chenango and Onondaga to the place of beginning shall be and continue a town by the name of Cazenovia.—

And that all that part of the said county of Chenango, beginning at the southeast corner of the county of Onondaga, thence southerly and easterly along the line of the county of Chenango to the township of Clinton, thence northerly along the westerly line of the same to and including a tract of sixteen thousand acres of land in the township of Clinton granted to Robert Harper, to the south bounds of the town of Oxford, thence along the south and west bounds of the town of Oxford to the south bounds of the town of Norwich, thence westerly on the

south line of said town to the county of Onondaga, thence south to the place of beginning shall be and continue a town by the name of Green.

Norwich. And that all that part of the said county of Chenango, bounded easterly by the Unadilla river, northerly by the towns of Brookfield, Sherburne and De Ruyter, southerly by the north bounds of a tract of land called Fayette, and the south bounds of townships number fourteen and thirteen being two of the said twenty townships, and westerly by the west bounds of the townships number thirteen and ten, together with all the lands in the said county, lying westerly of the said townships number thirteen and ten, and not included in either of the said towns of De Ruyter or Green, shall be and continue a town by the name of Norwich.—

Oxford. And that all that part of the said county of Chenango, bounded northerly by Norwich westerly on the east bounds of a tract of land purchased by William S. Smith called the Chenango Triangle, southerly by the south bounds of the township of Fayette, and easterly by the Unadilla river, shall be and continue a town by the name of Oxford.—

Jerico. And that all that part of the said county of Chenango, bounded northerly by Oxford, easterly and southerly by the bounds of the county, and westerly by Green, shall be and continue a town by the name of Jerico.—

Tioga county; Chenango. And that all that part of the county of Tioga, bounded easterly by the bounds of the county, southerly by the bounds of the State, northerly by the bounds of the county and westerly by the rivers Susquehanna and Chenango, shall be and continue a town by the name of Chenango.—

Union. And that all that part of the said county of Tioga, bounded easterly by the town of Chenango, south by the Pennsylvania line, west by the town of Tioga and northerly by the town of Lisle, shall be and continue a town by the name of Union.

Tioga. And that all that part of the said county of Tioga, bounded west by the Owego river, and a line running from the mouth thereof south to the Pennsylvania line, northerly by the bounds of the county, southerly by the Pennsylvania line, and easterly by a line beginning at the northwest corner of lot number twenty three in the north tier of lots in the Massachusetts ten townships so called, and running south to the northwest corner of lot number one hundred and thirty two in the great division of the said ten townships, thence south to the northeast corner of Cox's patent, thence south to the Pennsylvania line, shall be and continue a town by the name of Tioga.

Lisle. And that all that part of the said county of Tioga, bounded west by the town of Tioga, north by the bounds of the county, east by the bounds of the county, and south by a line beginning at the before mentioned northwest corner of lot number one hundred and thirty two, and running east on the line of lots to the forks of the Chenango river, shall be and continue a town by the name of Lisle.

Owego. And that all that part of the said county of Tioga, bounded southerly by Pennsylvania, northerly by the bounds of the county, easterly by the town of Tioga, and westerly by the Cayuta creek, shall be and continue a town by the name of Owego.

Chemung. And that all that part of the said county of Tioga, bounded east by Owego, northerly by the bounds of the county, southerly by the Pennsylvania line and westerly by a line drawn north and south from the middle of the bridge that crosses Balding's mill creek to the north and south line of Tioga county, shall be and continue a town by the name of Chemung.

And that all that part of the said county of Tioga, bounded westerly by the bounds of the county, southerly by the Pennsylvania line, easterly by Chemung and northerly by the town of Catharine's, shall be and continue a town by the name of Newtown.

And that all that part of the said county of Tioga, bounded west and north by the bounds of the county, east by Chemung, and south by the south bounds of the northern half parts of the townships number one and four of a tract of land patented to John W. Watkins and Royal Flint shall be and continue a town by the name of Catharines.

And that all that part of the county of Onondaga, contained within the limits and bounds of the townships of Cincinnatus and Solon as distinguished on a map of the military tract filed in the secretary's office by the surveyor general of the State, shall be and continue a town by the name of Solon.

And that all that part of the said county of Onondaga, contained within the limits and bounds of the townships of Virgil and Homer as distinguished on the said map, shall be and continue a town by the name of Homer.

And that all that part of the said county of Onondaga, contained within the limits and bounds of Fabius and Tully, as distinguished on the said map, together with all that part of the town of Sempronius, as distinguished on the said map, and lying east of the Skaneateles lake, shall be and continue a town by the name of Fabius.

And that all that part of the said county of Onondaga, contained within the limits and bounds of the two tracts of land known by the name of the late Onondaga and Salt Spring reservations, shall be and continue a town by the name of Onondaga.

And that all part of the said county of Onondaga, comprehending the township of Pompey, as distinguished on the said map, shall be and continue a town by the name of Pompey.

And that all that part of the said county of Onondaga, comprehending the township of Manlius, as distinguished on the said map, shall be and continue a town by the name of Manlius.

And that all that part of the said county of Onondaga, comprehending the townships of Lysander, Hannibal and Cicero as distinguished on the said map, shall be and continue a town by the name of Lysander.

And that all that part of the said county of Onondaga, comprehending the township of Camillus, as distinguished on the said map, shall be and continue a town by the name of Camillus.

And that all that part of the said county of Onondaga, comprehending the township of Marcellus, as distinguished on the said map, shall be and continue a town by the name of Marcellus.

And that all that part of the county of Cayuga, comprehending the townships of Ulysses and Dryden, as distinguished on a map of the military tract filed in the secretary's office, by the surveyor general of this State, and extending to the middle of the Cayuga lake, shall be and continue a town by the name of Ulysses.

And that all that part of the said county of Cayuga, comprehending the townships of Milton and Locke, as distinguished on the said map, extending to the middle of Cayuga lake, shall be and continue a town by the name of Milton.

And that all that part of the said county of Cayuga, comprehending all that part of the township of Scipio, as distinguished on the said map, lying east of the Owasco lake, together with the township of Sempronius, as also distinguished on the said map, shall be and continue a town by the name of Sempronius.

Scipio.

And that all that part of the said county of Cayuga, comprehending the township of Scipio as distinguished on the said map and extending to the middle of Cayuga lake, excepting such part thereof as lies east of the Owasco lake and comprehending that part of the lands reserved to the Cayuga nation of Indians, lying on the east side of the middle of the Cayuga lake, south of a west line drawn from the southwesterly corner of the township of Aurelius in the east bounds of the said reservation to the middle of said Cayuga lake, shall be and continue a town by the name of Scipio.

Aurelius.

And that all that part of the said county of Cayuga, comprehending the townships of Cato, Brutus and Aurelius, as distinguished on the said map, together with that part of the lands reserved to the Cayuga nation of Indians as aforesaid, lying on the east side of the middle of the Cayuga lake and not included in the town of Scipio, shall be and continue a town by the name of Aurelius.

Ovid

And that all that part of the said county of Cayuga, comprehending the townships of Ovid and Hector, as distinguished on the said map, and extending east to the middle of the Cayuga lake and west to the west bounds of the county, shall be and continue a town by the name of Ovid.

Romulus.

And that all that part of the said county of Cayuga, contained within the following bounds to wit, beginning at the Seneca lake at the southwest corner of lot number thirty seven and northwest corner of lot number forty three in the township of Romulus, as distinguished on the said map; from thence west to the west bounds of the county, and east between said lots number thirty seven and forty three, thirty eight and forty five, thirty nine and forty six, forty and forty seven, to the west bounds of lot number forty two; then south to the northwest corner of lot number forty eight; then east to the west bounds of the reservation; then northwardly along said reservation line to the west corner of lot number fifty three of said reservation; then easterly between lots number fifty three and fifty eight, fifty four and fifty nine, fifty five and sixty; fifty six and sixty one of said reservation and the same course continued to the middle of the Cayuga lake; then southwardly up the middle of the Cayuga lake to the northeast corner of the town of Ovid; thence west to the west bounds of the county; thence northwardly along the same till an east line will strike the place of beginning, and then east to the place of beginning, shall be and continue a town by the name of Romulus.

Washington.

And that all that part of the said county of Cayuga, comprehending the townships of Junius and Galen as distinguished on the said map, together with the lands in the said county lying west of the townships of Cato and Hannibal, as distinguished on the said map, and north of the said township of Galen and south of Lake Ontario, as also all that part of the township of Romulus and the same continued west to the bounds of the county, and all that part of the lands reserved to the Cayuga nation of Indians, lying on the west side of the middle of the Cayuga lake, which are not included in the above town of Romulus, shall be and continue a town by the name of Washington.

Ontario
county;
Seneca.

And that all that part of the county of Ontario, comprehended within the following boundaries, vizt., beginning on the west line of township number ten in the first range of townships at a point equi distant from the northwest and southwest corners of said townships; thence running east to the new pre-emption line; thence south to a point on said line due east from the southeast corner of township number nine in the first range; thence west to the southeast corner of said township number

nine; thence westerly along the south line of said township number nine to the southwest corner thereof, and thence north along the west lines of townships number nine and ten in the first range to the place of beginning; comprehending township number nine and the south half of number ten in the first range and the lands lying east thereof in the said county, shall be and continue a town by the name of Seneca.

And that all that part of the said county of Ontario, beginning at the northwest corner of township number eight in the first range which is the southwest corner of the town of Seneca; thence running east on the north line of said township to the new pre-emption line; thence south on said line to where it intersects the western shore of the Seneca lake; thence southerly along the said western shore to a point on the same due east from the southeast corner of township number seven in the first range; thence west to the said southeast corner of township number seven in the first range; thence westerly along the south lines of townships number seven in the first and second ranges to the southwest corner of township number seven in the second range; thence north along the west line of township number seven in the second range to the northwest corner thereof; thence east along the north line of said township number seven in the second range to the northeast corner thereof; and thence north along the west line of township number eight in the first range to the northwest corner thereof, which was the place of beginning, comprehending townships number seven and eight in the first range, and the lands east thereof and number seven in the second range, shall be and continue a town by the name of Jerusalem.

And that all that part of the said county of Ontario, beginning at the northeast corner of township number eight in the second range, which is the southwest corner of the town of Seneca and the northwest corner of the town of Jerusalem; thence running south on the east line of said township number eight in the second range to the southeast corner thereof; thence west along the south lines of townships number eight in the second and third ranges to the center (east and west) of the Canandarqua lake; thence northerly along the middle of said lake following the courses thereof to the north line of said township number eight in the third range; thence east along the north lines of township number eight in the third and second ranges to the place of beginning, comprehending township number eight in the second range and that part of number eight in the third range which lies east of Canandarqua lake, shall be and continue a town by the name of Augusta.

And that all that part of the said county of Ontario, beginning at the northeast corner of township number ten in the second range of townships, thence running south on the east lines of townships number ten and nine in the second range to the southeast corner of township number nine in the second range; thence west on the south line of said last mentioned township to the south corner thereof; thence north along the west line of said townships number nine and ten in the second range, to the northwest corner of said township number ten in the second range; thence east along the north line of said last mentioned township to the place of beginning, comprehending township number nine and ten in the second range, shall be and continue a town by the name of Easton.

And that all that part of the said county of Ontario, beginning on the west line of township number ten in the first range at a point equidistant from the northwest and southwest corners of said township, which point is the northwest corner of the town of Seneca; thence running due east

to the new pre-emption line; thence north on said line to a point due east from the northeast corner of township number eleven in the first range of townships; thence west to the said northeast corner of township number eleven in the first range; thence westerly along the north line of the last mentioned township to the northwest corner thereof, and thence southerly along the west lines of townships number eleven and ten in the first range to the place of beginning, comprehending township number eleven and the north half of number ten in the first range and the lands east thereof, shall be and continue a town by the name of Phelps.—

Farming-
ton.

And that all that part of the said county of Ontario, beginning at the southeast corner of township number eleven in the second range; thence running west along the south lines of townships number eleven in the second and third ranges to the southwest corner of township number eleven in the third range; thence north on the west line of the last mentioned township to the northwest corner thereof; thence east along the north line of the last mentioned township to the northeast corner thereof; thence north to the northwest corner of township number eleven in the second range, and thence east along the north line of said township last mentioned to the northeast corner thereof; and thence south along the east line of the said township last mentioned to the place of beginning, comprehending townships number eleven in the second and third ranges, shall be and continue a town by the name of Farmington.

Palmyra.

And that all that part of the said county of Ontario, beginning at the the southeast corner of township number twelve in the second range; thence west along the south line of said township to the southwest corner thereof; thence south to the southeast corner of township number twelve in the third range; thence west along the south line of the last mentioned township to the southwest corner thereof; thence north along the west line of said township to the northwest corner thereof; thence east on the north line of said township to the northeast corner thereof; thence north to the northwest corner of township number twelve in the second range; thence east along the north line of the last mentioned township to the northeast corner thereof, and thence south along the east line of the said township number twelve in the second range to the southeast corner thereof, which was the place of beginning, comprehending townships number twelve in the second and third ranges, shall be and continue a town by the name of Palmyra.—

Sodus.

And that all that part of the said county of Ontario, beginning at the northeast corner of the county of Ontario, which is a point on the southern shore of Lake Ontario, at which the new pre-emption line intersects the said shore; thence running south on the said new pre-emption line to a point due east from the southeastern corner of township number twelve in the first range; thence west to the said southeast corner of township number twelve in the first range; thence westerly along the south line of the said last mentioned township to the southwest corner thereof, thence north along the west line of said township to the northwest corner thereof, thence west along the north line of township number twelve in the second range to the northwest corner thereof; thence south to the northeast corner of township number twelve in the third range; thence west along the north line of the said last mentioned township to the northwest corner thereof; thence north along the west lines of townships number thirteen and fourteen in the third range to Lake Ontario, and thence easterly along the southern shore of said lake to the place of beginning; comprehending townships number twelve, thir-

teen and fourteen in the first range, and that part of the gore east thereof, and number thirteen and fourteen in the second and third ranges, shall be and continue a town by the name of Sodus.

And that all that part of the said county of Ontario, beginning at the **Northfield.** northeast corner of township number fourteen in the fourth range on the south shore of Lake Ontario, thence running south on the east lines of townships number fourteen, thirteen and twelve in the fourth range to the southeast corner of township number twelve in the fourth range, thence west along the south lines of townships number twelve in the fourth and fifth ranges to the southwest corner of township number twelve in the fifth range, thence southerly along the east line of township number twelve in the seventh range to the southeast corner of said last mentioned township, thence west along the south line of said last mentioned township number twelve in the seventh range to the Genesee river, thence northerly along the middle of said river following the courses thereof to Lake Ontario, and thence easterly along the shore of Lake Ontario to the place of beginning comprehending townships number twelve, thirteen and fourteen in the fourth and seventh ranges, and township number twelve in the fifth range, shall be and continue a town by the name of Northfield.—

And that all that part of the said county of Ontario, beginning at the **Bloomfield.** northeast corner of township number eleven in the fourth range, thence running south on the east lines of townships number eleven and ten in the fourth range to the southeast corner of township number ten in the fourth range, thence west along the south lines of townships number ten in the fourth and fifth ranges to the Honeoy creek, thence northerly down the middle of said Honeoy creek following the courses thereof to where it intersects the west line of township number eleven in the fifth range, thence northerly along the west line of said township number eleven in the fifth range to the northwest corner thereof, and from thence east along the north lines of township number eleven in the fifth and fourth ranges to the place of beginning, comprehending townships number ten and eleven in the fourth range, and those parts of number ten and eleven in the fifth range, which lie east and north of the Honeoy creek, shall be and continue a town by the name of Bloomfield.—

And that all that part of the said county of Ontario beginning at the **Charleston** southwest corner of township number ten in the sixth range; thence running northerly on the east lines of townships number ten and eleven in the seventh range, to where the Honeoy creek intersects the said east line of township number eleven in the seventh range, thence southerly up the centre of said creek following the courses thereof to where it intersects the south line of township number ten in the fifth range, and thence westerly along the south lines of townships number ten in the fifth and sixth ranges to the place of beginning, comprehending township number ten in the sixth range, and that part of township number ten and eleven in the fifth range which lies west of Honeoy creek, shall be and continue a town by the name of Charleston.—

And that all that part of the said county of Ontario, beginning at the **Hartford.** southeast corner of township number ten in the seventh range; thence running west along the south line of said township to the Genesee river, thence northerly along the middle of said river following the courses thereof to where it is intersected by the north line of township number eleven in the seventh range; thence easterly along the north line of the last mentioned township to the northeast corner thereof; and thence southerly along the east lines of township number eleven and ten in the seventh range to the place of beginning comprehending townships num-

ber ten and eleven in the seventh range, shall be and continue a town by the name of Hartford.

Cananda-
gua.

And that all that part of the said county of Ontario, beginning at the northeast corner of township number ten of third range, thence running south on the east lines of townships number ten and nine in the third range to the southeast corner of township number nine in the third range; thence west on the south line of said township number nine to the southwest corner thereof; thence north on the west lines of said townships number nine and ten to the northwest corner of said township number ten, and thence east on the north line of said number ten to the place of beginning, comprehending townships number nine and ten in the third range, shall be and continue a town by the name of Canandarqua.—

Bristol.

And that all that part of the said county of Ontario, beginning at the northeast corner of township number nine in the fourth range; thence running south on the east line of said township to the northwest corner of township number eight in the third range; thence east along the north line of said township number eight to the middle (east and west) of the Canandarqua lake, thence southerly up the middle of said lake to the south line of said township number eight, thence west along the south lines of townships number eight in the third and fourth ranges to the southwest corner of township number eight in the fourth range; thence north on the west line of said township number eight in the fourth range to the northwest corner thereof; thence east to the southwest corner of township number nine in the fourth range; thence north on the west line of said last mentioned township to the northwest corner thereof, and thence east on the north line of said township to the place of beginning, comprehending townships number eight and nine in the fourth and that part of number eight in the third range which lies west of Canandarqua lake, shall be and continue a town by the name of Bristol.

Middle-
town.

And that all that part of the said county of Ontario, beginning at the northeast corner of township number seven in the third range; thence running south along the east line of said township to the southeast corner thereof; thence west along the south lines of townships number seven in the third fourth and fifth ranges (which is also the south line of the county) to the southwest corner of township number seven in the fifth range; thence north on the west line of the last mentioned township to the northwest corner thereof, and thence east on the north lines of townships number seven in the fifth, fourth and third ranges to the place of beginning, comprehending townships number seven in the third, fourth and fifth ranges, shall be and continue a town by the name of Middletown.

Pittstown.

And that all that part of the said county of Ontario, beginning at the northeast corner of township number nine in the fifth range; thence south on the east line of said township and of township number eight in the fifth range to the southeast corner of township number eight in the fifth range; thence west along the south lines of number eight in the fifth and sixth ranges to a point on the south line of township number eight in the sixth range equidistant from the southeast and southwest corner of said township; thence north to the north line of said township, thence west on the south line of township number nine in the sixth range to the southwest corner thereof; thence north on the west line of the last mentioned township to the northwest corner thereof, and thence east on the north lines of townships nine in the sixth and fifth ranges to the place of beginning, comprehending townships number eight and

nine in the fifth range, nine in the sixth range, and the east half of number eight in the sixth range, shall be and continue a town by the name of Pittstown.—

And that all that part of the said county of Ontario, beginning at the northeast corner of township number seven in the sixth range; thence running south on the east line of said township to the southeast corner thereof; thence west along the south lines of townships number seven in the sixth and seventh ranges to the southwest corner of township number seven in the seventh range, and thence north on the west line of said last mentioned township and of township number eight in the seventh range (called the Indian line) to the confluence of the Genesee river with the Canaseraga creek, thence down the Genesee river, following the courses thereof northerly to the north line of township number eight in the seventh range; thence east on the north line of said township to the northeast corner thereof, thence north to the northwest corner of township number eight in the sixth range; thence east on the north line of township number eight in the sixth range to a point on the same equi-distant from the northwest and northeast corners of said last mentioned township; thence south to the north line of township number seven in the sixth range, and thence east on said north line to the place of beginning, comprehending townships number seven and eight in the seventh range, number seven in the sixth range and the west half of township number eight in the sixth range, shall be and continue a town by the name of Sparta.—

And that all that part of the said county of Ontario, beginning at the northeast corner of township number nine in the seventh range; thence running south on the east line of said township to the southeast corner thereof; thence west on the south line of said township to the Genesee river; thence northerly down the middle of the said river, following the courses thereof, to the north line of township number nine in the seventh range, and thence east along the north line of said township to the place of beginning, comprehending township number nine in the seventh range, shall be and continue a town by the name of Genesee.

And that all that part of the said county of Ontario, which lies west-erly of the following described line (viz) beginning at the mouth of the Genesee river on Lake Ontario; thence running southerly up the middle of said river, following the courses thereof to the confluence of the said river with the Canaseraga creek, and then south on the Indian line (so called) being a meridian line, to the north line of the State of Pennsylvania, shall be and continue a town by the name of Northampton.

And that all that part of the county of Steuben, known and distinguished by township number one two and three in the first and second range of townships, and being at the southeast corner of the said county, together with the gore lying between the east boundary line of townships number one two and three in the first range and the east bounds of the said county, shall be and continue a town by the name of Painted Post.

And that all that part of the said county of Steuben, known and distinguished by townships number four, five and six in the first range of townships, and the easterly half of townships number four and five in the second range and the southeasterly corner of township number six in the second range, bounded on the north and west by the Crooked Lake, and also the gore lying between the east boundary line of the said township number four, five and six in the first range and the east bounds of the county, shall be and continue a town by the name of Frederick's town.

Middle-
town.

And that all that part of the said county of Steuben, known and distinguished by townships number one, two and three in the third and fourth range of townships aforesaid, shall be and continue a town by the name of Middletown.

Bath.

And that all that part of the said county of Steuben, known and distinguished as the westwardly half of townships number four and five in the second range of townships aforesaid, and also all that part of township number six in the said second range, not included in the said town of Frederick's town, and also townships number four, five and six in the third and fourth range of townships aforesaid, shall be and continue a town by the name of Bath.—

Canisteo.

And that all that part of the said county of Steuben, known and distinguished by townships number one, two, three and four in the fifth, sixth and seventh ranges of townships aforesaid, including the gore between number three in the fourth and number three in the fifth range, and also the gore between numbers four and five in the sixth range aforesaid, shall be and continue a town by the name of Canisteo.—

Dansville.

And that all that part of the said county of Steuben, known and distinguished by townships number five and six in the fifth, sixth and seventh ranges of townships aforesaid, shall be and continue a town by the name of Dansville.

Titles not
affected.

And be it further enacted, That none of the bounds or lines by this act assigned for the limits of any of the said towns, shall be construed to affect the rights or title of any person or body politic, or confirm the bounds or rights of any patent whatsoever.—

Part of act
recited
repealed.

And be it further enacted, That the fifth section of the act entitled An act for dividing the counties of this State into towns, passed the 7th of March 1788, be and hereby is repealed.—

Division of
the poor
among cer-
tain towns.

And be it further enacted, That as soon as may be after the first Tuesday of May next, the supervisors and overseers of the poor of the towns of Goshen, Warwick and Minisink in the county of Orange, shall by notice to be given by the supervisors of the said towns or any one of them for that purpose meet together at any place in the town of Goshen and apportion the poor maintained by the said towns, and also divide all money which now is and will be in the hands of the overseers of the poor of the said towns or any of them, in an equitable manner, and if the said supervisors and overseers of the poor cannot agree upon such apportionment and division of the poor and money aforesaid, then and in such case, the supervisors of the said county shall at their next annual meeting apportion and divide the poor and money as aforesaid, in such manner as shall appear to them most just and equitable; and the said towns shall thereafter maintain their own poor respectively. Provided nevertheless,

Acts of
present
session not
affected.

And be it further enacted, That nothing in this act contained shall be deemed or construed to alter the lines or bounds of any of the towns erected, or in any wise affect the laws whereby such towns were erected at the present session of the legislature; any thing herein contained to the contrary, in any wise notwithstanding.

CHAP. 164.

AN ACT to lay a duty on strong liquors, and for regulating inns and taverns.

PASSED the 7th of April, 1801.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, from time to time to appoint such person in the city of New York as they shall think proper, to be the commissioner for collecting the duty of excise of and from the several retailers of strong or spirituous liquors in the said city. And that the following persons shall be the commissioners for collecting the said duty in the several towns of this State, to wit, the supervisor of each town and any two justices of the peace resident therein, or in case there shall not be two justices, or they shall be absent, then such neighbouring justice or justices in the same county as the supervisor of such town shall notify and associate with him for that purpose. Commissioners of excise, who to be.

And be it further enacted, That the several commissioners of excise within this State, (except in the cities of New York, Albany, Hudson and Schenectady,) shall annually and immediately before they grant any licence to any person to keep an inn, or tavern, or sell or retail strong or spirituous liquors, take and subscribe the following oath before one of the justices of the peace of the county in which they reside: Oath of office.

"I one of the commissioners of excise for the town of
in the county of do solemnly swear in the presence of Almighty God, that I will not on any account or pretence whatsoever grant any licence to any person within the said town of for the purpose of keeping an inn or tavern except where it shall appear to me, to be absolutely necessary for the benefit of travellers; and that I will in all things while acting as a commissioner of excise do my duty according to the best of my judgment and ability, without fear, favor or partiality agreeable to law;" and the person before whom such oath shall be taken and subscribed shall certify the day and year in which such oath was taken, and that the same was so taken and subscribed before him, on the back of the paper on which the same oath is so subscribed; and the person taking and subscribing the same, shall within ten days thereafter, send or deliver the same to the clerk's office of the town, for which he so acts as a commissioner of excise, and the clerk of such town shall file the same among the papers in his said office: And if any person who is hereby directed to take and subscribe such oath, shall presume to act as a commissioner of excise without having taken, and subscribed the same, or if any such person shall neglect to return the same oath so subscribed and certified as aforesaid to the town clerk, to be filed as aforesaid, within the time by this act limited, such person shall for every such neglect or refusal forfeit the sum of ten dollars, to be sued for and recovered, with full costs of suit, by any person who will prosecute for the same before any justice of the peace of the county, where such neglect or refusal shall happen, the one moiety of which sum when recovered shall be paid by the person so suing and receiving the same to the overseers of the poor of the town in which such neglect shall happen for the use of the said town, and the other moiety shall be for the use of the person so suing for the same.

Licenses to
be granted
for sale of
liquors.

And be it further enacted, That it shall be lawful for the commissioners of excise in the several towns of this State, annually by writing under their respective hands and seals, and in the several cities aforesaid annually in the manner directed by their respective charters, or by any statute prescribing such manner therein to grant to the several persons who shall reside in their respective cities or towns and apply for the same, a licence to retail strong or spirituous liquors under five gallons; which said respective licences shall continue in force from the time of granting the same until the first Tuesday of May next ensuing the date thereof and no longer. *Provided always* that no licence shall be granted in any of the said cities to retail strong or spirituous liquors for the purpose of keeping an inn or tavern, unless it shall appear to the commissioners thereof that an inn or tavern, at the place at which such permit is applied for, is necessary for the accommodation of travellers, and that the person applying for such licence is of good character, all of which shall be inserted in every such licence. *And provided further,* that no such licence shall be granted in any town of this State, unless three commissioners shall be present at the granting thereof, of which three, the supervisor of the town, shall always be one; nor until they or a majority of them then so present have satisfactory evidence that the person who applies for such licence is of good moral character, and of sufficient abilities to keep an inn or tavern, and that he has accommodations to entertain travellers, and that an inn or tavern is absolutely necessary at the place where such person resides, or proposes to keep such tavern for the actual accommodation of travellers as aforesaid: All of which they or a majority of them are hereby directed to put in writing by way of a resolve of the said board, and severally subscribe the same, and within twenty days thereafter shall return such resolve to the office of the town clerk of the town for which they are commissioners, who is hereby directed to file the the same, and deposit it among the other papers of such town; and that all licences obtained, except the aforesaid board of commissioners are so actually present at the granting of the same, shall be considered as absolutely void.

Proviso as
to granting
of licenses.

Licenses in
New York
city and
Hudson.

And be it further enacted, That it shall be lawful for the commissioner of excise in the city of New York, to determine the sum which each person applying for a licence to retail strong or spirituous liquors under five gallons, shall pay for the same, not being less than five dollars, nor more than fifty dollars as a duty of excise, which sum shall be paid to him by the person applying before the licence shall be issued as aforesaid, and that it shall also be lawful for the commissioners of excise in the city of Hudson, and in the several towns in this State, to determine the sum which each person applying for a licence shall pay for the same not being less than five dollars, nor more than thirty dollars as a duty of excise; which together with the sum of seventy five cents as a fee to the respective commissioners for granting such licence, shall be paid to them by the person applying for such licence before the same be issued as aforesaid. And the said commissioners are required to keep an account of the persons, to whom licences shall be granted, and of the sums by them paid therefor, and to file the same with the clerk of such city or town on or before the first day of March in every year; and shall from time to time, without delay pay the monies so to be by them received as aforesaid to the overseers of the poor of the respective cities and towns for which they are commissioners, to be applied to the relief of the poor thereof.

Salary of
commissioners in

And be it further enacted, That the commissioner of excise for the city of New York shall be entitled for his services to the sum of two

hundred and seventy five dollars per annum, which it shall be lawful for him to retain out of the monies which may come into his hands from the duty of excise as aforesaid, and the residue thereof he shall from time to time, and without delay pay to the chamberlain of the said city, to be applied for the payment of the contingent charges of the said city; and that the said commissioner shall keep an account of the persons to whom licences shall be granted in the said city, and of the sums by each of the said persons paid therefor, and file the same with the chamberlain of the said city on or before the last day of February in every year.

New York
city.

And be it further enacted, That no person shall sell by retail any strong or spirituous liquors to be drank in his or her house, out house, yard or garden, unless such person shall appear before a justice of the peace of the county in which he or she shall reside, or if in either of the said cities, before the mayor, or in his sickness or absence the recorder thereof, and enter into recognizance to the people of the State of New York in the sum of one hundred and twenty five dollars, conditioned that such person will not during the time that such person shall keep an inn or tavern, keep a disorderly inn or tavern, or suffer or permit any cock fighting, gaming or playing with cards or dice, or keep any billiard table or other gaming table, or shuffle board, within the inn or tavern by him or her to be kept, or within any out house, yard or garden belonging thereunto; which recognizance so to be taken, shall be lodged by the person before whom the same shall be taken with the clerks of the respective cities or counties where the same shall be taken; and if any person shall be convicted of an offence against this act, it shall be lawful for the courts of general sessions of the peace, in the respective cities and counties in this State, to suppress the license of such offender. But that no person who shall be licensed to retail strong liquors, not to be drank in his or her house, but carried elsewhere shall be obliged to enter into recognizance as aforesaid.

Recogniz-
ance to be
given by
person
selling
liquors to
be drank
on his
premises.

And be it further enacted, That if any person shall sell by retail any strong or spirituous liquors, without having such licence as aforesaid, or if any person shall sell any strong or spirituous liquors to be drank in his or her house, outhouse, yard or garden without having entered into such recognizance as aforesaid, every person who shall be guilty of either of the offences aforesaid, shall for each offence forfeit the sum of twenty five dollars. *Provided always* that no person shall be subject to be prosecuted by virtue of this act, for selling metheglin, currant wine, cherry wine, or cyder, to be by such person made, and which shall not be drank in his house, out house, yard, or garden.—

Penalty
for illegal
sales.

And be it further enacted, That it shall be deemed an offence against the people of this State, for any person who shall keep a public inn or tavern, to permit or suffer any cock fighting, playing with cards or dice, or to keep any billiard table or other gaming table, or shuffle board within his or her house, or within any outhouse, yard or garden belonging thereto, or therein to permit any kind of gaming by lot or chance, and that every person convicted of any offence against this act, shall be punished by fine and imprisonment, or either at the discretion of the court, in which any such conviction shall be had.

Cock fight-
ing and
gambling.

And be it further enacted, That every keeper of any public inn, or tavern in this State, except in the city of New York, shall keep in his house at least two spare beds for guests, with good and sufficient sheeting and covering for such beds respectively, and provide and keep good and sufficient stabling and provender of hay in the winter, and hay or pasturage in the summer, and grain for four horses, or other cattle, more than his own stock, for the accommodation of travellers, upon pain of

Spare beds
and prov-
ender.

forfeiting for every neglect or default of having either of the articles in this clause before mentioned the sum of five dollars.

Restri-
tions on
granting of
licenses.

And be it further enacted, That no person shall have a licence to sell any strong or spirituous liquors to be drank in any store or house, where merchants goods are sold, unless such person shall also take at the same time a license to keep an inn or tavern, and it shall appear necessary to the commissioners that an inn or tavern, ought to be kept at such place for the actual benefit and accommodation of travellers as in other cases, nor unless such person shall actually keep the necessary spare bedding, stabling, hay and provender for horses, except in the city of New York, and shall conform in all things to the rules prescribed by this act relative to the keepers of inns and taverns; and no strong liquors shall be sold by such person on any pretence to be drank in the same room, where such merchants goods are sold.

Sales to
appren-
tices and
servants.

And be it further enacted, That if any innholder or tavern keeper shall sell any strong or spirituous liquors to any apprentice, servant, or slave knowing or having reason to suspect or believe him or her to be such, without the consent of his or her master or mistress, such innholder or tavern keeper shall forfeit and lose every debt which such apprentice, servant or slave shall contract for any such liquor, and also for every such offence forfeit the sum of five dollars, to be recovered with costs of suit by the master or mistress of such apprentice, servant, or slave. *And further,* that the license of every such innholder or tavern keeper shall be and hereby is declared void from the time of such conviction; and such innholder or tavern keeper shall be and is hereby declared to be incapable of receiving any further or other licence for holding any public inn or tavern, for the space of three years from the time of such conviction.

Pawns.

And be it further enacted, That if any innholder or tavern keeper, or any other person, shall take or receive directly or indirectly, from any such apprentice, servant or slave, any cloathing or any other goods, chattels, wares, or merchandize, in payment for any such strong or spirituous liquors, or in pawn or pledge, to secure any such payment, and thereof be convicted by the oath of any one credible witness, such person so offending besides the payment of the penalty, and forfeiture of the debt as aforesaid shall within three days after such conviction restore to the master or mistress of such apprentice servant or slave, all such cloathing or other property which such person shall have so taken or received from any such apprentice, servant or slave; or shall forfeit and pay unto the master or mistress of such apprentice, servant or slave, double the value of the same; to be recovered by such master or mistress, his or her executors, or administrators with costs of suit in any court having cognizance thereof.

Liquor
debts not
to be re-
covered in
courts.

And be it further enacted, That if any innholder or tavern keeper shall trust any person other than travellers, above the sum of one dollar and twenty five cents, for any sort of strong or spirituous liquors or other tavern expences, he shall lose every such debt, and be incapable of suing for the same or any part thereof; and if any such innholder or tavern keeper shall sue therefor, the person sued may plead this act in bar, or give the same in evidence under the general issue, and if the plaintiff in such suit shall become non suit, or a verdict or judgment shall be given for the defendant, every such plaintiff shall pay double costs.

Notes for
liquors
void

And be it further enacted, That if any innholder or tavern keeper shall take from any person trusted as aforesaid any note or other security in writing for any sum above one dollar and twenty five cents for any strong or spirituous liquors, sold or drank in his house as aforesaid

under pretence by which to evade this act, every such note or other writing shall be void; and further that every person who shall be convicted of an offence against this clause of this act, shall forfeit double the sum mentioned in, and intended to be secured by such note or other writing, to be recovered by action of debt, or by information with costs of suit, in any court having cognizance thereof. *Provided however*, that nothing herein contained shall be construed to debar any innholder or tavern keeper from taking or recovering any sum of money due to him from any person who may be a lodger in his house, or from travellers not residing in such city or town.

And be it further enacted, That every innholder or tavern keeper, shall within thirty days after obtaining his licence put up a proper sign on or adjacent to the front of his house, with his name thereon, and keep such sign up during the time he shall keep an inn or tavern, under the penalty of one dollar and twenty five cents for every months neglect thereof. And that if any person who shall not have a licence as aforesaid shall erect or keep up such sign, he shall forfeit the like penalty of one dollar and twenty five cents for every week such sign shall be so kept up. Sign to be put up.

And be it further enacted, That every penalty and forfeiture imposed by this act may be recovered with costs of suit in any court having cognizance thereof, by any person who will prosecute for the same to effect, unless this act has otherwise provided, the one moiety thereof not by this act otherwise appropriated shall when recovered be paid to the overseers of the poor of the city or town in which such offence shall happen for the use of the poor thereof; and the other moiety to the person who shall sue for the same. Recovery of penalties.

And be it further enacted, That all offences committed against any of the provisions of this act, shall be deemed and considered as misdemeanors punishable by fine and imprisonment, or either of them, at the discretion of the court before which any conviction may be had. Misdemeanors.

And be it further enacted, That whenever any suit shall be commenced and a recovery had for a penalty incurred by selling strong or spirituous liquors without licence; such recovery shall be a bar to all prosecutions for offences of the like nature committed before such recovery. Recovery a bar to other actions.

CHAP. 165.

AN ACT for the more speedy recovery of debts to the value of twenty five dollars.

PASSED the 7th of April, 1801.

I. Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That all actions of debt, detinue, account, covenant, trespass on the case, and trespass, including trespass on any land or other real estate, wherein the sum or balance due, or damages or thing demanded shall not exceed twenty five dollars, and also all penalties not exceeding the said sum imposed by the act entitled, "An act to lay a duty on strong liquors, and for regulating inns and taverns;" and also all sums of money not exceeding the value of twenty five dollars, to be sued for and recovered in any court of record, by virtue of any statute of this State, shall be cognizable before any justice of the peace of any city or county the city and county of New York excepted; and every such justice is hereby authorised to hold a court for the trial of all such actions, and to hear, try and determine the same, according to Recovery of debts of less than twenty-five dollars.

law and equity, and every justice in such court is hereby vested with all such power, for the purpose aforesaid, as is usual in courts of record in this State, and shall sign all process to be issued out of such court: *provided always*, that no justice of the peace shall have cognizance as aforesaid of any action wherein the people of this State shall be concerned, or where the title of any lands shall in any wise come in question, except actions of trespass on land as aforesaid, nor of any action of assault, battery or imprisonment, or of slander, or malicious prosecution, nor of matters of account where the sum total of the accounts of both parties, exceeds in the amount of value thereof the sum of two hundred dollars, and that account proved to the satisfaction of the said court, nor of any action to be brought against any executor or administrator for any debt or demand due from the estate of any testator or intestate.

Summons
and war-
rant.

II. *And be it further enacted*, That every such justice upon application to him made for the recovery of any such debt, damages or demand, shall issue a summons or warrant as the case may require, directed to some constable or other proper officer of the city or town, where the defendant dwells, or can be found, commanding him when a summons is issued to summon the defendant to appear before such justice, at a certain time and place in the same summons to be expressed, not less than six nor more than twelve days from the time of issuing such summons, to answer the plaintiff of the plea in the same summons to be mentioned; and when a warrant is issued, then commanding the constable or other officer, to take the defendant, and bring him or her forthwith before such justice, to answer the plaintiff of the plea, in the same warrant to be mentioned, and upon the return of such summons, if the same be duly served, or upon bringing the defendant before such justice by virtue of any such warrant, or at such other time and place as the said justice shall think reasonable to appoint, not exceeding six days thereafter, the said justice shall proceed to hear and examine the allegations and proofs of the parties, and within four days thereafter give judgment thereon, in such manner as shall appear to him to be agreeable to law and equity, together with costs of suit, as hereafter allowed.

Service of
process.

III. *And be it further enacted*, That the first process against all freeholders and inhabitants having families (except as hereafter is excepted,) shall be by summons which shall be served at least six days before the time of appearance mentioned therein, by reading the same summons to the defendant, and delivering a copy thereof when required, if such defendant shall be found, and if not, by leaving a copy thereof at his or her house or place of abode, in the presence of some one of the family of suitable age and discretion, who shall be informed of the contents thereof; and the constable or officer serving such summons, shall upon the oath of his office, indorse thereupon the time and manner he executed the same, and sign his name thereto, and in case the defendant does not appear at the time and place appointed in such summons, and it shall appear by the return indorsed thereon, that the summons was duly served upon the person of the defendant in the manner aforesaid, and no sufficient reason shall appear to the justice, why the defendant does not appear at the time appointed, then the said justice who issued the said summons shall proceed to hear, and try and determine the cause in the same manner as if the defendant had appeared; but if such summons was served only by leaving a copy thereof at the house or place of abode of the defendant, as aforesaid, and the defendant does not appear at the time and place appointed in such summons, and no sufficient reason shall appear to the justice, why the defendant does not

appear, then the said justice shall issue a warrant against such defendant in the manner aforesaid, and proceed as above directed, unless the plaintiff shall elect to have a new summons against such defendant; and in all cases where a sufficient reason shall appear to the justice, why the defendant does not appear at the time and place appointed in the summons, the justice shall give to the defendant such further time, as he shall think reasonable, and at such time so given the justice shall and may proceed as aforesaid. Provided always,

IV. *And be it further enacted*, That in all cases where a warrant shall be issued by virtue of this act, and upon service thereof, the justice who issued the same shall be absent, or unable to hear and try the cause, it shall and may be lawful for the constable serving such warrant, to carry the defendant before the next justice of the city or county, where the justice who issued the warrant shall reside, and such other justice shall take cognizance of, and hear, try and determine the cause, in the same manner as he could or might have done, if he had issued the warrant, by virtue of which the defendant shall be taken, but in all other cases, where any process shall be issued in pursuance of this act, and served on the defendant, for any debt, damages or demand, of what nature soever, the cause shall be tried before the justice who first issued such process, and not before any other justice.

When action begun by warrant

V. *And be it further enacted*, That if any plaintiff or his or her attorney, so applying for process, shall prove upon oath to the satisfaction of the justice, that if such process be by summons against any such freeholder or inhabitant having a family, the plaintiff will be in danger of losing his debt or demand thereby, or doth really and sincerely believe that such freeholder or inhabitant will depart the city or county wherein he or she doth reside, then the justice shall issue a warrant in such manner as is above directed. *And further* that where the plaintiff in any action aforesaid shall be a nonresident of the county, and shall give security to pay the debt or damages and costs of suit in case judgment shall be given against him, then such plaintiff may also have a warrant returnable immediately.

When warrant may issue.

VI. *And be it further enacted*, That no person shall be proceeded against by summons out of the city or county where he or she does reside; and that where any parties shall agree to enter an action before any justice, without any process, the justice shall proceed to trial in the same manner as if a summons or warrant had issued.

Where action brought.

VII. *And be it further enacted*, That where a warrant shall be issued for a nonresident plaintiff as aforesaid, the justice before whom the cause is to be tried, shall not adjourn the same for more than three days unless the parties agree to allow a longer time; and in all other cases where a warrant shall be issued if the plaintiff or defendant shall require a longer time than is at first appointed by the court to try the said cause, and will if required give sufficient security to appear and stand trial on such other day as shall be appointed, then the justice is hereby empowered and required to adjourn the trial of such cause, to any day he shall judge most convenient, not exceeding twelve days, nor less than three days, unless the justice and parties shall otherwise agree. *Provided always*, that if any adjournment be made without the consent of the plaintiff in any case where a warrant shall be issued as aforesaid, the defendant shall give sufficient security to appear on the day to which such adjournment shall be made, and in default of such appearance to pay the debt and costs, if judgment shall be given against such defendant, and for want of such security, the justice shall proceed to trial without an adjournment.

Adjournment on security given.

Where material witness absent

VIII. *And be it further enacted*, That in cases not provided for by the last section as aforesaid, if the defendant shall make oath that he cannot for want of some material testimony or witness, safely proceed to trial, the justice shall in such cases postpone the trial for such reasonable time as will enable the defendant to procure such testimony or witness; *provided* that such time shall not exceed three months, *and provided also*, that such defendant before he shall be entitled to have the trial postponed as aforesaid, shall give security to the said justice to appear and answer the said action, and to pay the debt, and damages, and costs, in case judgment shall be given against him; *provided also*, that in any action to be brought by virtue of this act by warrant or otherwise, if either the plaintiff or defendant shall request an adjournment, he shall not be entitled thereto, unless the party requesting such an adjournment, (after having seen the account or demand of the adverse party,) shall if required, exhibit his or her account or demand, or state the nature thereof as far forth as may be in his or her power, to the satisfaction of the justice before whom the cause is to be tried.

Offsets.

IX. *And be it further enacted*, That if the defendant in any action to be brought by virtue of this act, hath any account or demand against the plaintiff, he may plead and set off the same against the debt or demand of the plaintiff; and if any defendant shall neglect or refuse so to do, such defendant shall for ever thereafter be precluded from having any action against the plaintiff to recover the same or any part thereof; *provided always*, that where the balance found to be due to the defendant shall exceed twenty five dollars in such case the defendant shall not be precluded from recovering the same account or demand against the plaintiff in any other court of record having cognizance thereof.

Plea of title.

X. *And be it further enacted*, That when in any action of trespass on any land or other real estate, any defendant shall justify on a plea of title the defendant shall commit such plea of justification to writing, and having signed the same in the presence of such justice, shall deliver such plea to the justice, who shall then countersign the same, and deliver it to the plaintiff, and that it shall and may be lawful to and for such plaintiff, to commence and prosecute an action for such trespass, against such defendant in the court of common pleas of the county, in which such trespass shall have been committed; and if such plaintiff shall recover any damages in such action, the defendant shall be liable to pay to such plaintiff double costs; and on every trial to be had for such trespass, the plea signed by such defendant, shall be conclusive evidence that the defendant relied on his title, to justify such trespass, and that every justice to whom a plea of justification shall be tendered, shall before he shall receive such plea, exact from the defendant together with one sufficient surety, a recognizance in the sum of fifty dollars; conditioned that if such plaintiff shall commence a suit before the next court of common pleas, for the recovery of damages for such trespass, such defendant shall appear and put in special bail in such court within twenty days after the first day of the then next term of the said court; and that in every case in which such plea shall be tendered, and the defendant shall not forthwith enter into such recognizance, the justice shall proceed in the same manner as if such plea had not been tendered. *Provided nevertheless*, that it shall be competent to such defendant, notwithstanding the said plea of title, to shew on the trial of any such cause before any court of common pleas, that the plaintiff had not possession of or title to the premises at the time such supposed trespass was committed.

XI. *And be it further enacted*, That all convictions to be had before any justice as aforesaid for offences against the act entitled, "An act to lay a duty on strong liquors, and for regulating inns and taverns," shall be drawn up in the following form, vizt. City of New York, (or Westchester county, or other city or county, as the case shall require,) to wit: Be it remembered, that on the _____ day of _____ in the year of our Lord, one thousand _____ A. B. of the city of New York (or of Bedford, in the county of Westchester, or other city, or town, or county as the case may require,) merchant, (or farmer, or other addition as the case may require), (and adding,) being an innholder or tavern keeper, (if the case be so,) is this day convicted before C. D. mayor, (or recorder, or one of the aldermen as the case may require,) of the said city, (or one of the justices of the peace of the said county as the case may require,) of having on the _____ day of _____ last, (or instant) at _____ in the said city or county, sold by retail one quart (or other quantity,) of rum, (or other spirituous liquors), without having such permit, (or to be drank in his or her house (or out house, yard or garden, without having entered into such recognizance, as is mentioned in the act entitled, "An act to lay a duty on strong liquors, and for regulating inns and taverns," (or) of not having in his, (or her) house, two spare beds for guests, with good and sufficient sheeting and covering for such beds respectively for the accommodation of travellers; or of not having good and sufficient stabling and provender of hay and grain, if in winter; and if in summer, of hay or pasture, for four horses or other cattle more than his or her own stock, for the accommodation of travellers, according to the form of the act entitled, "An act to lay a duty on strong liquors, and for regulating inns, and taverns;" or of having on the _____ day of _____ last, (or instant,) at _____ in the said city or county sold one gill, (or other quantity) of rum, (or other strong liquors) to _____ an apprentice, (or servant or slave,) of _____ knowing or having reason to suspect or believe him or her to be such, without the consent of his or her master, or mistress, against the form of the act entitled, "An act to lay a duty on strong liquors, and for regulating inns and taverns," (or) of having for the space of one month, (or two or more months,) neglected to put up, and keep such sign up, as is required by the act entitled, "An act to lay a duty on strong liquors, and for regulating inns, and taverns;" given under my hand and seal, the day and year first above written. And every such conviction shall within thirty days after it is made, be filed in the office of the clerk of the city or county where the offence was committed, there to remain as a record, and may be pleaded in bar to any other prosecution for the same offence.

Form of conviction for offences against excise law.

XII. *And be it further enacted*, That in every action to be brought by virtue of this act, it shall be lawful for either of the parties to the suit, or the attorney of either of them, after issue joined, (and before the court shall proceed to enquire into the merits of the cause,) to demand of the said court, that such action be tried by a jury; and upon such demand, the said justice holding such court, is hereby required to issue a venire, directed to any constable of the city or town, where the said cause is to be tried, commanding him to summon twelve good, and lawful men, being freeholders, or freemen of such city, or being freeholders of such town, where the said cause is to be tried, and who shall be in no wise of kin to the plaintiff or defendant, nor interested in such suit, to be and appear before such justice issuing such venire at such time and place as shall be expressed in such venire, to make a jury for trial of the action between the parties mentioned in the said venire; which

Jury trials.

constable shall at the return of the said venire, return a panel of names of the jurors he shall so summon by virtue thereof, and the name of each person so impanelled, shall be written on several and distinct pieces of paper, as nearly of one size as may be, and shall be delivered to the said justice, before whom such action is to be tried, by the constable returning such panel, and shall by the said constable be rolled up, all as near as may be in one and the same manner, and put together in a box, or some convenient thing; and on the trial of such cause, such justice, or such indifferent person as he shall appoint for that purpose shall draw out six of the said papers, one after another; and if any of the persons whose names shall be so drawn, shall not appear, or shall be challenged and set aside, then such further number thereof shall be drawn, as shall make up the number of six who do appear after all legal causes of challenge allowed by the said justice; unless the parties agree that the said constable shall summon six men at his discretion; and the said six persons so first drawn, and appearing, and approved by the court as indifferent, shall be the jury who shall try the cause to, each of whom the said justice shall administer the following oath: "You do swear in the presence of Almighty God, that you will well and truly try the matter in difference between plaintiff, and

Oath of
jurors.

defendant, and a true verdict will give according to evidence."— And after the said jury have taken the oath aforesaid, they shall sit together, and hear the several proofs and allegations of the parties, which shall be delivered in public, in their presence, and to each of the witnesses on the said trial, the said justice shall administer the following oath, viz: "You do swear in the presence of Almighty God, that the evidence you shall give in this matter in difference between plaintiff, and defendant, shall be the truth, the whole truth, and nothing the truth." And after hearing the proofs and allegations, the jury shall be kept together in some convenient place, until they all agree upon a verdict, and for which purpose a constable shall be sworn, and to whom the said justice shall administer the following oath, viz: "You do swear in the presence of Almighty God, that you will to the utmost of your ability, keep every person sworn on this inquest together in some private and convenient place, without meat or drink except water, you will not suffer any person to speak to them, nor speak to them yourself, unless by order of the justice, unless it be to ask them whether they have agreed on their verdict, until they have agreed on their verdict."— And when the jurors have agreed on their verdict, they shall deliver the same to the justice in the same court, who is hereby required to give judgment thereupon, and to award execution in manner hereinafter directed. *Provided always* that no oath of either party, or ex-parte affidavit of any other person, shall be allowed or given in evidence in any such action, unless the parties agree to allow of such evidence.

Penalty for
neglect to
attend of
witness or
juror.

XIII. *And be it further enacted*, That every person summoned and drawn as a juror, or subpoenaed as a witness, who shall not appear, or appearing, shall refuse to serve, or give evidence in any such action,* shall forfeit and pay for every such default or refusal, (unless some reasonable cause be proved, on oath to the satisfaction of the said court,) such fine or fines, not exceeding the sum of ten dollars, nor less than sixty two and an half cents, as the said court shall think reasonable to impose; and the said court is hereby authorized and required to issue a warrant to any constable, to levy the same of the goods and chattels of the offender, and for want thereof, to take and convey him or her to the

* So in original.

gaol of the city or county wherein the offence shall have been committed, there to remain until he or she pay such fine, together with the costs attending the same; and the keeper of such gaol is hereby commanded to keep such offender in safe custody, in such gaol, until such fine, together with the costs, shall be paid: *Provided always* that no such fine or fines shall be imposed, unless oath shall first have been made before the court, by some credible person, that such juror, or witness so in default, hath been lawfully summoned, or subpoenaed as aforesaid; all and every of which said fines when recovered, shall be delivered by the said court to the overseers of the poor, for the use of the poor of the city, or town where the same shall be levied.

XIV. *And be it further enacted*, That if the plaintiff in any such action shall be non suited, or discontinue, or withdraw his action without the consent of the defendant, then judgment shall be given against such plaintiff for the costs accrued; or if he shall be found to be indebted to the defendant, then judgment shall be given against him for the debt, or damages and costs, as the case may require; and whenever judgment shall be given against either plaintiff or defendant, the said court shall grant execution thereupon, directed to one of the constables of the city or town, where the party dwells, or can be found, commanding him to levy the debt or damages and costs, of the goods and chattels of the person against whom such execution shall be granted, his arms and accoutrements excepted, and to bring the money at a certain time and place therein to be mentioned before the justice who issued the execution, to render to the party who recovered the same; and if no goods or chattels can be found, or not sufficient to satisfy such execution, the party recovering the judgment, may from time to time, renew such execution, or have further execution against the goods and chattels of the party against whom such judgment is recovered, or may bring an action of debt thereon; or if the party against whom such judgment is recovered, be a freeholder within this State, or be a person not having a family therein, and the same be proved to the satisfaction of the justice by the oath of the party in whose favor such execution shall issue, or by the oath of such witnesses, as the justice shall require, or if the judgment be against any person whatever, for any penalty incurred under the act entitled, "An act to lay a duty on strong liquors, and for regulating inns and taverns," then every execution to be issued as aforesaid, may further command that if sufficient goods and chattels cannot be found, to satisfy the debt or damages and costs as aforesaid, that the officer take the body of the person against whom such execution shall be granted, and him or her convey to the gaol of such city or county: *Provided always*, that no such proof of any such party, against whom judgment shall be given, being a freeholder or a person not having a family shall be required by any such justice, unless such party shall at the time of the trial of any such action, or some time before the issuing execution, not exceeding four days after such trial claim and alledge his exemption from any such execution against his body; *and further* that no execution of any judgment given by virtue of this act, shall issue against any freeholder, or inhabitant having a family, in less than thirty days after giving the said judgment, unless the party in whose favor judgment shall be given, shall make it appear to the satisfaction of the said justice, on his own oath, or the oath of some other person, that such plaintiff, will be in danger of losing the debt, or damages, if such delay be allowed; in which case the said justice shall issue execution immediately, as herein before directed, unless the party against whom such judgment shall be given, shall thereupon give security to the party

Judgments
for costs
and dam-
ages; exe-
cutions.

in whose favour judgment was given, that he will pay the debt, or damages and costs, before, or surrender himself in execution, is liable to be imprisoned on execution, by virtue of this act, at the expiration of thirty days.

Sale of
goods on
execution.

XV. *And be it further enacted*, That the constable after taking such goods and chattels, into his custody by virtue of such execution, shall immediately give public notice, by an advertisement signed by himself, and put up at three public places in such city, or town, where such goods and chattels shall be taken, of the time & place when and where they will be exposed to sale, at least five days before the time appointed for selling them, and therein describe the goods and chattels so taken; and at the time and place so appointed for selling them, shall expose them to sale at public vendue, to the highest bidder, and pay the debt or damages and costs levied to the justice, who issued the execution, returning the overplus, if any to the owner; and for want of goods and chattels whereon to levy, the said constable, shall according to the tenor of the said execution, take the body of the person against whom the same execution shall be granted, and convey and deliver him or her, to the keeper of the common gaol of the city, or county; and in case the person against whom such execution shall issue, be a freeholder, such keeper is hereby commanded to keep such person in safe custody, in the common gaol aforesaid, until the debt, or damages with costs shall be fully paid; and in case any such person be not a freeholder, and the same be certified, or a memorandum thereof made by such justice, upon such execution, whose duty it shall be so to do, then until the expiration of thirty days from the time of receiving such person; and in case such constable, to whom any execution shall be delivered, shall not within twenty days after receiving such execution, levy the same on the goods and chattels of the person, against whom such execution shall be granted, and in ten days thereafter pay the debt and costs so levied, into the hands of the justice who issued the same, or in case of his death, or removal from office, to the person in whose favour the execution was granted; or if no goods or chattels can be found, whereon to levy, then if the said constable shall not, if such execution require it, take the body of the person against whom such execution was granted, if to be found, within thirty days from the receipt of such execution as aforesaid; then and in every such case, the said constable, shall be holden to pay the amount of such execution to be recovered by an action of debt, with costs, by the person in whose favour such execution was granted, in which case execution shall issue forthwith against such constable.

When con-
stable of
adjoining
town may
act.

XVI. *And be it further enacted*, That where in any city, or town no constable shall be chosen or appointed, or the constable be absent, or where a process shall be issued against such constable of any city or town, that then, and in such case, the justice upon application made, shall and may direct the process or execution to the constable of the next adjoining town, living nearest where the defendant dwells, or can be found, who is hereby required to execute the same; and that when any process shall be issued by any justice by virtue of this act, the constable of the city or town, to whom such process shall be directed, shall proceed agreeable to this act, and execute such process in his own proper person, unless the justice who issued such process shall, at the request of the plaintiff, judge it expedient to depute some other proper person, who will voluntarily undertake to execute the same, without fee or reward; but no person shall be so deputed to impannel or summon any jury.

XVII. *And be it further enacted*, That it shall be lawful, for any constable to execute any summons or precept issued by virtue of this act in any city or town, in the county in which the same was issued. Where process may be executed.

XVIII. *And be it further enacted*, That every summons, or warrant to be issued by virtue of this act, may issue against any joint debtors, in the same manner, as against individual debtors, and in case the same be duly served in manner herein before directed, upon either of such joint debtors, such joint debtor, on whom the same shall be so served, shall answer to the plaintiff, and the judgment shall in such case be against the joint debtor, or debtors on whom the same was so served, and against the other joint debtor, or debtors named in such summons or warrant, in the same manner, as if such process had been duly served on all such debtors: *Provided however*, that no execution shall issue against the body, or against any goods and chattels, the sole property of any debtor, on whom process was not duly served as aforesaid. Joint debtors.

XIX. *And be it further enacted*, That no judgment, order, or proceeding whatsoever, to be had or made by virtue of this act, shall be removed by any writ of error, or false judgment. *And further*, that no justice of the supreme court, shall allow any certiorari, or other process, to remove the same, unless the party applying for such certiorari, shall within thirty days after such judgment given, make affidavit satisfying such justice of the supreme court, that there is reasonable cause for granting such certiorari, for error in such judgment, which shall be particularly specified in the said affidavit, and which affidavit may be made before one of the justices of the supreme court, or one of the judges of the court of common pleas of the county, where such judgment shall be given, or before one of the commissioners for taking affidavits, to be read in the supreme court; and such affidavit shall be left with the justice of the supreme court, who may allow such certiorari, in order that the adverse party may obtain a copy thereof. And if any certiorari, or other writ, shall be granted or issued otherwise, than is above mentioned the same shall be void. *And further*, that no execution upon any judgment to be given by virtue of this act, shall be prevented or stayed by any certiorari, or other writ, in case the party in whose favor such judgment shall be given, shall give such security as may be satisfactory to the justice, by whom such judgment shall be given, to restore the debt, or damages, for which such judgment shall be obtained, with the interest and costs, in case the same shall be reversed: And if any such judgment be removed into the supreme court, and be there confirmed, then the party procuring such certiorari, shall pay to the adverse party, all costs of defending such suit in the supreme court; and the party entitled to such costs, shall and may have execution for the same, out of the said supreme court, against the body, or goods and chattels of the party, who ought to pay the same: But if such judgment shall be reversed, then the party procuring such certiorari, shall in like manner recover his or her costs; *provided always*, that in all cases of judgments removed by certiorari as aforesaid, the supreme court shall proceed and give judgment, according as the very right of the case shall appear, without regarding any imperfection, omission, or defect in the proceedings, before the court below in mere matters of form. And that so much of the act entitled, "An act concerning amendments and jeofails," as may be applicable, shall be deemed at all times to apply as fully to judgments and proceedings under this act, as to judgments and proceedings in any other court of record in this State. Review of judgments.

XX. *And be it further enacted*, That nothing herein contained shall extend to oblige any justice of the peace, being a member of the senate Certain justices need not

take cognizance of actions.

or assembly, or any judge of any county court, to take cognizance of any action by virtue of this act; but that they shall be at liberty, at all times, to act therein, or not at their discretion. And no justice of the peace, being an inn, or tavern keeper, or living in a house in which a tavern is kept, and no alderman of the city of Albany, shall try any cause by virtue of this act.

Costs in justices' courts.

XXI. *And be it further enacted*, That no greater or other costs shall be allowed or taken, in actions brought by virtue of this act, than the following:—Justices fees; a summons, nine cents; a warrant, twelve and an half cents: Judgment, twelve and an half cents: Administering every oath, six cents: Subpœna for each witness, six cents: Issuing the venire facias, to summon a jury, nineteen cents: Swearing the jury, twelve and an half cents: Every execution, nineteen cents: Every witness attending and sworn, twelve and an half cents: Constable or other proper officer, for serving a warrant, or summons, notifying the plaintiff to trial, or serving an execution, mileage for one mile, or under twelve and an half cents; for every mile more six cents; *provided*, that on all precepts to be issued by virtue of this act, the fees for serving be computed only from the place of abode of the defendant, or where he shall be found, to the place where the precept is returnable: Serving every execution, for every dollar, five cents: Summoning every jury, thirty seven and an half cents: Jurors fees, for all causes tried, twelve and an half cents each: When summoned and attending, and not trying the cause, six cents each: To the constable, or other person serving subpœna, twelve and an half cents, for each witness. *Provided*, that the whole costs to be recovered, or allowed in any action, shall not exceed the sum of five dollars.

Constable to have custody of prisoners.

And be it further enacted, That in all cases, when any person or persons shall be brought before any justice of the peace, on any warrant by virtue of this act, it shall be the duty of the constable to take the charge of the defendant or defendants until discharged by such justice.

CHAP. 166.

AN ACT to organize the militia of this State.

PASSED the 7th of April, 1801.

Preamble.

WHEREAS by the constitution of the United States, the Congress has power to provide for organizing, arming and disciplining the militia; and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.—

And whereas the Congress did on the eighth day of May, one thousand seven hundred and ninety two, pass an act, entitled "An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States" which act is in the words following vizt.—

Who liable to enrollment.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that each and every free able bodied white male citizen of the respective States, resident therein, who is or shall be of the age of eighteen years, and under the age of forty five years, (except as is herein after excepted) shall severally and re-

spectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall reside, and that within twelve months after the passing of this act, and it shall at all times hereafter be the duty of every such captain or commanding officer of a company to enrol every such citizen as aforesaid, and also those who shall from time to time arrive at the age of eighteen years or being of the age of eighteen years and under the age of forty five years (except as before excepted) shall come to reside within his bounds and shall without delay notify such citizen of the said enrollment by a proper non commissioned officer, of the company, by whom such notice may be proved, that every citizen so enrolled and notified, shall within six months thereafter, provide himself with a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein to contain not less than twenty four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball, or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder, and shall appear so armed, accoutred and provided, when called out to exercise or into service, except that when called out on company days to exercise only, he may appear without a knapsack, that the commissioned officers shall severally be armed with a sword or hanger and espartoon; and that from and after five years from the passing of this act, all muskets for arming the militia, as herein required, shall be of bore sufficient for balls of the eighteenth part of a pound; and every citizen so enrolled and providing himself with the arms, ammunition, and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions, or sales for debt or for the payment of taxes.—

And be it further enacted, That the vice president of the United States, the officers judicial and executive of the government of the United States the members of both houses of Congress and their respective officers, all custom house officers with their clerks, all post officers and stage drivers who are employed in the care and conveyance of the mail of the post office of the United States, all ferrymen employed at any ferry on the post road, all inspectors of exports, all pilots, all mariners actually employed in the sea service of any citizen or merchant within the United States, and all persons who now are or may hereafter be exempted by the laws of the respective States, shall be, and are hereby, exempted from militia duty, notwithstanding their being above the age of eighteen, and under the age of forty five years.

And be it further enacted, That within one year after the passing of this act, the militia of the respective States shall be arranged into divisions, brigades, regiments, battalions, and companies, as the legislature of each State shall direct; and each division, brigade, and regiment shall be numbered at the formation thereof, and a record made of such numbers in the adjutant generals office in the State, and when in the field, or in service in the State, each division, brigade, and regiment, shall respectively take rank according to their numbers, reckoning the first or lowest number highest in rank, that if the same be convenient, each brigade shall consist of four regiments, each regiment of two battalions, each battalion of five companies, each company of sixty four privates; that the said militia shall be officered by the respective States, as follows. To each division one major general and two aids de-camp, with the rank of major; to each brigade, one brigadier general, with one brigade inspector, to serve also as a brigade major, with the rank of a major; to each regiment, one lieutenant colonel commandant, and to

Who exempt from militia duty.

Arrangement of militia into divisions, brigades, regiments, battalions and companies; officers.

each battalion one major; to each company, one captain, one lieutenant, one ensign, four serjeants, four corporals, one drummer, and one fifer or bugler; that there shall be a regimental staff, to consist of one adjutant and one quarter-master, to rank as lieutenants, one pay-master, one surgeon and one surgeons mate, one serjeant-major, one drum major and one fife major.

How battalions, companies and troops made up.

And be it further enacted, That out of the militia enrolled as is herein directed, there shall be formed for each battalion, at least one company of grenadiers, light infantry or riflemen, and that to each division there shall be at least one company of artillery and one troop of horse: There shall be to each company of artillery, one captain, two lieutenants, four serjeants four corporals, six gunners, six bombardiers, one drummer and one fifer; the officers to be armed with a sword or hanger, a fusee, bayonet and belt with a cartridge box to contain twelve cartridges, and each private or matross shall furnish himself with all the equipments of a private in the infantry, until proper ordnance and field artillery is provided. There shall be to each troop of horse, one captain, two lieutenants, one cornet, four serjeants, four corporals, one saddler, one farrier and one trumpeter; the commissioned officers to furnish themselves with good horses of at least fourteen hands and an half high, and to be armed with a sword and pair of pistols, the holsters of which to be covered with bears-skins cap. Each dragoon to furnish himself with a serviceable horse, at least fourteen hands and an half high, a good saddle, bridle, mail-pillion, and valise, holsters, and a breast plate and crooper, a pair of boots and spurs, a pair of pistols, a sabre, and a cartouch box to contain twelve cartridges for pistols. That each company of artillery and troop of horse shall be formed of volunteers from the brigade, at the discretion of the commander in chief of the State, not exceeding one company of each to a regiment, nor more in number than one eleventh part of the infantry, and shall be uniformly clothed in regimentals, to be furnished at their own expence, the colour and fashion to be determined by the brigadier commanding the brigade to which they belong.

Colors, etc.

And be it further enacted, That each battalion and regiment shall be provided with the State and regimental colours by the field officers, and each company with a drum and fife, or bugle horn by the commissioned officers of the company, in such manner as the legislature of the respective States shall direct.—

Adjutant-general.

And be it further enacted, That there shall be an adjutant general appointed in each State, whose duty it shall be to distribute all orders from the commander in chief of the State to the several corps, to attend all public reviews when the commander in chief of the State shall review the militia, or any part thereof, to obey all orders from him relative to carrying into execution and perfecting the system of military discipline established by this act, to furnish blank forms of different returns that may be required, and to explain the principles on which they should be made, to receive from the several officers of the different corps throughout the State returns of the militia under their command, reporting the actual situation of their arms, accoutrements, and ammunition, their delinquencies and every other thing which relates to the general advancement of good order and discipline: All which the several officers of the divisions, brigades, regiments and battalions, are hereby required to make in the usual manner so that the said adjutant general may be duly furnished therewith; from all which returns he shall make proper abstracts, and lay the same annually before the commander in chief of the State.—

And be it further enacted, That the rules of discipline, approved and established by Congress, in their resolution of the 29th of March, one thousand seven hundred and seventy nine, shall be the rules of discipline to be observed by the militia, throughout the United States, except such deviations from the said rules as may be rendered necessary by the requisitions of this act, or by some other unavoidable circumstances; it shall be the duty of the commanding officer at every muster, whether by battalion, regiment, or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline.—

Rules and discipline.

And be it further enacted, That all commissioned officers shall take rank, according to the date of their commissions, and when two of the same grade bear an equal date, then their rank to be determined by lot, to be drawn by them before the commanding officer of the brigade, regiment, battalion, company or detachment.

Order of rank of commissioned officers.

And be it further enacted, That if any person, whether officer or soldier, belonging to the militia of any State, and called out into the service of the United States, be wounded or disabled while in actual service, he shall be taken care of, and provided for at the public expence.—

Disabled men to be cared for.

And be it further enacted, That it shall be the duty of the brigade inspector, to attend the regimental and battalion meetings of the militia, composing their several brigades, during the time of their being under arms, to inspect their arms, ammunition and accoutrements, superintend their exercise and manœuvres and introduce the system of military discipline before described, throughout the brigade agreeable to law, and such orders as they shall, from time to time, receive from the commander in chief of the State, to make returns to the adjutant general of the State, at least once in every year of the militia of the brigade to which he belongs reporting therein the actual situation of the arms, accoutrements and ammunition, of the several corps and every other thing, which in his judgment, may relate to their government, and the general advancement of good order and military discipline; and the adjutant general shall make a return of all the militia of the State, to the commander in chief of the said State, and a duplicate of the same to the president of the United States.—

Brigade inspectors.

And whereas sundry corps of artillery, cavalry and infantry, now exist in several of the said States, which, by the laws, customs or usages thereof, have not been incorporated with, or subjected to the general regulations of the militia.

Be it further enacted, That such corps retain their accustomed privileges, subject nevertheless, to all other duties required by this act in like manner with the other militia.

Privileges of certain corps.

And whereas The reservations contained in the said constitution relative to the militia of the States respectively, render it necessary that provision should be made in the premises by the legislature of this State; therefore

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the militia of this State shall be arranged into five divisions, agreeably to the directions of the commander in chief and conformable to the act of Congress aforesaid, and each division shall be formed into as many brigades, and each brigade into as many regiments, and each regiment into as many companies as the commander in chief shall in his discretion from time to time deem meet; and he shall order that at least one company of artillery and one troop of horse, be formed from every brigade, or from such of them as he shall require.—

Five divisions; brigades.

Aids of
command-
er.

And be it further enacted, That the commander in chief shall be entitled to appoint for himself three aides-de-camp who shall have the rank of lieutenant colonels.

Cavalry,
how ar-
ranged.

And be it further enacted, That the cavalry of this State, shall be organized into as many regiments as there are divisions; that each regiment consisting of not more than eight troops, shall be divided into two squadrons, and each regiment consisting of more than eight troops, shall be divided into three squadrons as the commander in chief shall direct, and each squadron shall be commanded by one major, and to each regiment there shall be one lieutenant colonel commandant, and the same staff as regiments of infantry; that such regiments of cavalry shall be formed into two brigades, each of which shall be commanded by a brigadier general; that the officers of cavalry shall rise and receive promotion in their respective troops, squadrons, regiments and brigades, and the whole shall be under the command of one major general; that the brigadier generals of infantry shall have the command of the troops attached to their brigade to parade for annual inspection, but all other parades shall be ordered by the officers of cavalry; and that the cavalry of this State shall parade for improvement twice in every year by troops, to be ordered by the captains or commanding officers of troops, once in every year by troops or squadrons to be ordered by the lieutenant colonel commandant; and if the commanding officer of the brigades shall think proper, once by regiments or brigades.

Troopers
to possess
horses.

And be it further enacted, That every trooper shall own and possess a horse able and fit for service; and if such trooper shall not procure and possess himself of such horse within the term of three months after his enlistment, such trooper shall be returned to the beat to which he before belonged; and all horses belonging to any troop shall be enrolled by the commanding officer of such troop by their distinguishing marks; and the horses so enrolled and doing duty in any troop shall be exempted from all attachments, seizures, distresses, executions or sales for debt, or for the payment of taxes; and it shall not be lawful for any officer to grant a certificate of enlistment to any trooper to excuse him from duty in any other corps, nor shall such troopers horse be exempted from attachment until such trooper shall have the equipments required by the laws of the United States.—

Artillery,
how
arranged.

And be it further enacted, That the artillery of this State shall be organized into as many regiments as there are divisions, that each regiment shall be divided into two battalions, and each battalion commanded by one major, and to each regiment there shall be one lieutenant-colonel commandant, and the same staff as regiments of infantry; that such regiments of artillery shall be formed into one or more brigades as the commander in chief shall direct, each of which shall be commanded by a brigadier general; that the officers of artillery shall rise and receive promotion in their respective companies, battalions, regiments and brigades, and the whole shall be under the command of one major general; that the brigadier-generals of the infantry shall have the command of the companies attached to their brigade to parade for annual inspection, but all other parades shall be ordered by the officers of artillery; and the artillery shall parade for improvement and inspection as often and in the same manner as the infantry are directed by law to meet for such purposes. *Provided always* that nothing in this section contained shall apply to the regiment of artillery in the city of New York.

Regiment
of artillery
New
York.

And be it further enacted, That the regiment of artillery in the city and county of New York shall have three field officers, and each company shall consist of as many officers, non commissioned officers and

matrosses as is directed by the act of Congress aforesaid; and whenever the lieutenant colonel of the said regiment of artillery becomes the senior lieutenant colonel within the district of the brigade of the city and county of New York, it shall be lawful to appoint him to the rank of a brigadier general, by brevet or otherwise, and confine him if necessary to the command of the regiment; and whenever he becomes the senior brigadier general in the division in which he resides, it shall be lawful for the person administering the government by and with the advice and consent of the council of appointment, to appoint him major-general of the said division, and the said regiment shall in the direction of the commander in chief be subject to be annexed to and compose part of a brigade in such manner as he shall from time to time deem meet; and further the said regiment shall be ordered out for exercise at least twelve times and not exceeding eighteen times in every year by the commanding officer thereof; and the commissary of military stores shall deliver to the commandant of the said regiment, from time to time, such ammunition, as the person administering the government of this State, shall judge necessary for the public good to be expended in practising with field artillery, mortars and other useful experiments.—

And be it further enacted, That all returns from the militia corps respectively, shall be made out and transmitted in such manner and at such time, as the commander in chief shall direct: And that every commissioned officer, who shall from time to time be appointed, shall report his acceptance of the office, within ten days after having received notice thereof, to such officer or officers as the commander in chief shall from time to time direct.—

Returns,
transmission of.

And be it further enacted, That the militia of this State shall rendezvous three times in every year, for the purpose of training, disciplining and improving in martial exercise, twice by companies within their respective beats, and once by regiments, except as is herein after excepted, and that each brigadier-general shall appoint the regimental parades, at such time and place as he may think proper, as nearly central as may be within each of the respective regiments; that the time and place of the rendezvous for the companies shall be appointed by the colonel or commanding officer of the regiment, and arranged on different days, that the field and staff officers may have an opportunity of attending the several companies exercised in detail in order to introduce uniformity in the manœuvres and discipline of the regiments, *provided however* that it shall be lawful for the militia of the counties of Otsego, Delaware, Herkemer, Oneida, Chenango, Tioga, Onondaga, Cayuga, Ontario, Steuben, Essex and Clinton to rendezvous by regiments or battalions as the major general or commanding officer of the division may direct.—

Rendezvous of militia.

And be it further enacted, That every non-commissioned officer and private, who shall neglect or refuse to obey the orders of his superior officer while under arms, shall forfeit two dollars and fifty cents for every such offence, and if any such non-commissioned officer or private, enrolled to serve in either of the companies mentioned in this act, shall refuse or neglect to perform such military duty or exercise as he shall be required to perform, or shall depart from his colours or guard without the permission of his superior officer as aforesaid, he shall forfeit the sum of two dollars and fifty cents, and for the non-payment thereof, the offender shall be committed to gaol, by warrant from the captain or commanding officer of the troop or company then present, to which such offender doth belong, there to be confined until the fines as aforesaid, together with the gaolers fees are paid; and the respective sheriffs of the respective cities, and counties of the State, are hereby empow-

Refusal to obey orders; penalty

in whose favour judgment was given, that he will pay the debt, or damages and costs, before, or surrender himself in execution, is liable to be imprisoned on execution, by virtue of this act, at the expiration of thirty days.

Sale of
goods on
execution.

XV. *And be it further enacted*, That the constable after taking such goods and chattels, into his custody by virtue of such execution, shall immediately give public notice, by an advertisement signed by himself, and put up at three public places in such city, or town, where such goods and chattels shall be taken, of the time & place when and where they will be exposed to sale, at least five days before the time appointed for selling them, and therein describe the goods and chattels so taken; and at the time and place so appointed for selling them, shall expose them to sale at public vendue, to the highest bidder, and pay the debt or damages and costs levied to the justice, who issued the execution, returning the overplus, if any to the owner; and for want of goods and chattels whereon to levy, the said constable, shall according to the tenor of the said execution, take the body of the person against whom the same execution shall be granted, and convey and deliver him or her, to the keeper of the common gaol of the city, or county; and in case the person against whom such execution shall issue, be a freeholder, such keeper is hereby commanded to keep such person in safe custody, in the common gaol aforesaid, until the debt, or damages with costs shall be fully paid; and in case any such person be not a freeholder, and the same be certified, or a memorandum thereof made by such justice, upon such execution, whose duty it shall be so to do, then until the expiration of thirty days from the time of receiving such person; and in case such constable, to whom any execution shall be delivered, shall not within twenty days after receiving such execution, levy the same on the goods and chattels of the person, against whom such execution shall be granted, and in ten days thereafter pay the debt and costs so levied, into the hands of the justice who issued the same, or in case of his death, or removal from office, to the person in whose favour the execution was granted; or if no goods or chattels can be found, whereon to levy, then if the said constable shall not, if such execution require it, take the body of the person against whom such execution was granted, if to be found, within thirty days from the receipt of such execution as aforesaid; then and in every such case, the said constable, shall be holden to pay the amount of such execution to be recovered by an action of debt, with costs, by the person in whose favour such execution was granted, in which case execution shall issue forthwith against such constable.

When con-
stable of
adjoining
town may
act.

XVI. *And be it further enacted*, That where in any city, or town no constable shall be chosen or appointed, or the constable be absent, or where a process shall be issued against such constable of any city or town, that then, and in such case, the justice upon application made, shall and may direct the process or execution to the constable of the next adjoining town, living nearest where the defendant dwells, or can be found, who is hereby required to execute the same; and that when any process shall be issued by any justice by virtue of this act, the constable of the city or town, to whom such process shall be directed, shall proceed agreeable to this act, and execute such process in his own proper person, unless the justice who issued such process shall, at the request of the plaintiff, judge it expedient to depute some other proper person, who will voluntarily undertake to execute the same, without fee or reward; but no person shall be so deputed to impanel or summon any jury.

XVII. *And be it further enacted,* That it shall be lawful, for any constable to execute any summons or precept issued by virtue of this act in any city or town, in the county in which the same was issued.

Where
process
may be
executed.

XVIII. *And be it further enacted,* That every summons, or warrant to be issued by virtue of this act, may issue against any joint debtors, in the same manner, as against individual debtors, and in case the same be duly served in manner herein before directed, upon either of such joint debtors, such joint debtor, on whom the same shall be so served, shall answer to the plaintiff, and the judgment shall in such case be against the joint debtor, or debtors on whom the same was so served, and against the other joint debtor, or debtors named in such summons or warrant, in the same manner, as if such process had been duly served on all such debtors: *Provided however,* that no execution shall issue against the body, or against any goods and chattels, the sole property of any debtor, on whom process was not duly served as aforesaid.

Joint
debtors.

XIX. *And be it further enacted,* That no judgment, order, or proceeding whatsoever, to be had or made by virtue of this act, shall be removed by any writ of error, or false judgment. *And further,* that no justice of the supreme court, shall allow any certiorari, or other process, to remove the same, unless the party applying for such certiorari, shall within thirty days after such judgment given, make affidavit satisfying such justice of the supreme court, that there is reasonable cause for granting such certiorari, for error in such judgment, which shall be particularly specified in the said affidavit, and which affidavit may be made before one of the justices of the supreme court, or one of the judges of the court of common pleas of the county, where such judgment shall be given, or before one of the commissioners for taking affidavits, to be read in the supreme court; and such affidavit shall be left with the justice of the supreme court, who may allow such certiorari, in order that the adverse party may obtain a copy thereof. And if any certiorari, or other writ, shall be granted or issued otherwise, than is above mentioned the same shall be void. *And further,* that no execution upon any judgment to be given by virtue of this act, shall be prevented or stayed by any certiorari, or other writ, in case the party in whose favor such judgment shall be given, shall give such security as may be satisfactory to the justice, by whom such judgment shall be given, to restore the debt, or damages, for which such judgment shall be obtained, with the interest and costs, in case the same shall be reversed: And if any such judgment be removed into the supreme court, and be there confirmed, then the party procuring such certiorari, shall pay to the adverse party, all costs of defending such suit in the supreme court; and the party entitled to such costs, shall and may have execution for the same, out of the said supreme court, against the body, or goods and chattels of the party, who ought to pay the same: But if such judgment shall be reversed, then the party procuring such certiorari, shall in like manner recover his or her costs; *provided always,* that in all cases of judgments removed by certiorari as aforesaid, the supreme court shall proceed and give judgment, according as the very right of the case shall appear, without regarding any imperfection, omission, or defect in the proceedings, before the court below in mere matters of form. And that so much of the act entitled, "An act concerning amendments and jeofails," as may be applicable, shall be deemed at all times to apply as fully to judgments and proceedings under this act, as to judgments and proceedings in any other court of record in this State.

Review of
judgments

XX. *And be it further enacted,* That nothing herein contained shall extend to oblige any justice of the peace, being a member of the senate

Certain
justices
need not

may happen, to order out the militia or any part thereof, under their respective commands, for the defence of this State, giving notice of such invasion and every circumstance attending the same, as early as possible, to their immediate commanding officer, by whom such information shall be transmitted with the utmost expedition, to the commander in chief of this State, and that in cases of insurrection, the commanding officer of the regiment, within the limits of which any such insurrection may happen, shall immediately assemble his regiment under arms, and having transmitted information thereof to the commanding officer of the brigade, and to the commander in chief of this State, shall proceed to take such measures, to suppress such insurrection, as to any three of the judges or justices of the county in which such insurrection shall happen, shall appear most proper and effectual and if any person be wounded or disabled, while in actual service of this State in opposing any invasion or insurrection, or in suppressing the same, he shall be taken care of and provided for at the expense of this State. *Provided always*, that if such judge or justices, shall deem a greater number of militia requisite to quell such insurrection, they shall, and are hereby required to apply for the same to the commanding officer of the division, or any brigade thereof, who are hereby severally required to obey such requisition.—

Courts
martial,
how com-
posed.

And be it further enacted, That courts martial for the trial of general officers shall be ordered by the commander in chief of this State, and shall consist of general and field officers, taken from a roster to be kept by the adjutant general for that purpose: That courts martial for the trial of field officers shall be ordered by the commanding officer of the division, and shall consist of commanding officers of brigades, field officers, and if requisite of captains: That courts martial for the trial of officers below the rank of field officers shall be ordered by the commanding officer of the brigade, and shall consist of field officers and others of inferior rank: That the commandants of regiments shall institute regimental courts martial within their respective regiments as often as it shall be found necessary.—

Oaths of
members.

And be it further enacted, That a court marshal other than regimental courts martial shall consist of thirteen commissioned officers, who shall appoint their own judge advocate, which judge advocate shall tender to each member, and each member is hereby required to take the following oath: "You do swear, that you will well and truly try and determine according to evidence, the matter now depending between the people of the State of New York, and the person or persons to be tried; and you do further swear, that you will not divulge the sentence of the court, until the same shall be approved or disapproved pursuant to the act entitled "An act to organize the militia of this State, neither will you, upon any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof by a court of justice, in a due course of law, so help you God." And the president is hereby authorized to tender to the judge advocate, who is hereby enjoined to take the following oath: "You , do swear that you will not upon any account, or at any time whatsoever, disclose or discover the vote or opinion of any particular member of the court martial, unless required to give evidence thereof, as a witness, by a court of justice, in a due course of law; and that you will not divulge the sentence of this court, until the same shall be approved or disapproved, pursuant to the act entitled "An act to organize the militia of this State, so help you God," and it shall and may be lawful, for the president of any such court,

after he shall have received notice of his appointment, and he is hereby required, on application, to issue his precept, directed to any witness to be summoned, commanding his attendance at the time and place appointed for such court to set, to give evidence in behalf of the people of this State, or for the person or persons to be tried (as the case may be) and any witness being summoned and making default, shall incur the like fines and forfeitures as are inflicted on witnesses for their default in not attending justices courts by the act for the more speedy recovery of debts to the value of twenty five dollars; and the president of any such court martial, shall be and he is hereby empowered, to administer the usual oath to such witnesses as shall come to give evidence to such court, during the time he shall be president thereof and that if any officer shall be arrested by virtue of this act, the charge shall particularly be set forth in writing and signed by the arresting officer, a copy whereof shall be delivered to such officer so arrested, or left in his usual place of abode, within three days after such arrest; and the person so arrested shall not be held to answer to any matter whatever, not set forth in such charge, that every commissioned officer who shall be convicted by a general court martial, of having refused or neglected to perform any of the duties of his office, shall be punished according to the nature and degree of his offence, at the discretion of the said court, either by fine or removal from office: *Provided* no fine shall exceed twenty five dollars for the first offence or one hundred and twenty five dollars for any subsequent offence.—

Proceed-
ings.

And be it further enacted, That a regimental court martial shall consist of not less than three nor more than five commissioned officers, the president of each court martial shall, before the said court proceeds on the duties assigned to them, administer to each member, and each member is hereby directed to take the following oath: "You , do swear that you will well and truly try and determine according to evidence the matter now depending between the people of the State of New York and the person and persons to be tried, and you do further swear that you will not upon any account at any time whatsoever, disclose or discover the vote or opinion of any particular member of the said court, unless required to give evidence thereof by a court of justice in a due course of law," which oath shall be taken by the president of the said court martial before he enters upon the duties of his office, for which purpose he shall appear before one of the justices of the peace of the said county where he resides, which justice is hereby required to administer the aforesaid oath to such president without receiving any fee or reward for the same: And the said regimental courts martial shall from time to time convene at such place and at such times as the commanding officer of the regiment shall direct, to the president of each of which courts martial all returns of delinquents from the said regiments shall be made, which president shall direct the delinquents on a day and at a place certain, to be summoned to appear before the said court, and to shew cause why the fines incurred by them should not be levied; and it shall be in the discretion of such court to cause the fines to be levied either in the whole or mitigated, or remitted in their discretion. And the president of each of the said regimental courts martial shall have the like power as the president of other courts martial as aforesaid relative to sending for witnesses, administering to them the usual oath, and the same penalties shall be incurred by witnesses for their non attendance.—

Regimental
courts
martial;
oath.Proceed-
ings.

And be it further enacted, That the proceedings and sentence of every court martial by which an officer shall be tried, shall be in writing

Proceed-
ings and
sentence to

be put in
writing;
approval;
appeal.

signed by the president thereof, and shall by him be delivered to the officer ordering such court martial, that all decisions of every such court martial for the trial of officers shall be approved or disapproved of by the officer ordering the same, with a right of appeal only by any person who may conceive himself aggrieved to the commander in chief, *provided always*, that it shall be the duty of the officer directed by law to order any court martial for the trial of officers, to order the same within thirty days after receiving a copy of the arrest and charges on which any arrest is made, and within fifteen days after the decision of any court martial, shall approve or disapprove of the same in orders: *And provided further* that no sentence of courts martial on a general officer shall go further than removal from office.—

Neglect by
non-com-
missioned
officer.

And be it further enacted, That every non commissioned officer who shall neglect or refuse to warn the men to appear at any rendezvous mentioned in this act when thereunto required by his captain or commanding officer, without sufficient excuse; or shall neglect or refuse so to summon any delinquent in the company to which he belongs to appear before any court martial when thereunto required by a summons from the president thereof, or shall neglect to return any such summons in his own proper person before such court martial, without having sufficient excuse, he shall forfeit the sum of five dollars for every such neglect or refusal, to be imposed, levied and collected as fines for other delinquencies.—

How warn-
ing served.

And be it further enacted, That as often as it shall happen that any non-commissioned officer or private shall be absent when any non commissioned officer shall call to warn him to appear to any rendezvous, a notice in writing, signed by such non-commissioned officer and left with some person of suitable age and discretion at the usual place of his abode, shall be deemed a sufficient warning.—

Return to
warrants
or orders.

And be it further enacted, That every non commissioned officer to whom any warrant or order from his superior officer shall be directed and delivered for warning any non-commissioned officer or private he shall when he has executed the same endorse on the back thereof a return setting forth the names of such as he hath warned in pursuance of it and shall make oath to the truth of such return before the captain or commanding officer of the company to which he belongs, who is hereby authorized and directed to administer such oath and certify the same on such warrant, and deliver it together with his return of delinquents to the president of the court martial; and such return so sworn to and certified shall be sufficient evidence to prove such warning.—

Forfeiture
for failure
to appear
when
warned.

And be it further enacted, That every non commissioned officer or private who shall neglect to appear when warned in pursuance of this act without sufficient excuse shall for every day he neglects to appear at the regimental or battalion rendezvous forfeit the sum of two dollars; and for every day he neglects to appear at the company parade forfeit the sum of one dollar, and if he shall not be armed or equipped according to the directions of this act, when so appearing, without sufficient excuse, he shall for every deficiency, forfeit the sum of twelve and an half cents, and appearing without a musket the sum of fifty cents. *Provided always* that none of the fines aforesaid or any other, arising from offences in a regiment or company thereof, any company of artillery or troop of horse, other than for disobedience of orders under arms, shall be levied on any delinquent, until he shall have been summoned to appear before a regimental court martial that he may show cause why such fine should not be levied.—

And be it further enacted, That every troop of horse and every company of artillery attached to any one of the divisions of this State, shall be considered as attached to the regiment within the bounds of which the commandant of such troop of horse or company of artillery shall reside for the purpose of imposing, levying and collecting fines for delinquencies, and it shall be the duty of the captain or commanding officer of every such troop of horse or company of artillery to make a return of all delinquents in their respective companies in the same manner as the captains or commanding officers of infantry are directed by law to the president of the court martial in such regiment ordered to investigate the excuses and impose the fines on delinquents in the same; and the authority and decision of every such court martial shall extend to such troop of horse and company of artillery as fully as it does to the infantry of such regiment.

Cavalry and artillery, fines on.

And be it further enacted, That all fines which shall be imposed by any regimental court martial on delinquents, shall be collected in the following manner: The president of every such court martial shall make a list of all the persons fined, designating the company to which they belong, and the sums imposed as fines on each person, and draw his warrant under his hand and seal directed to any marshal or constable of any city or county, (as the case may be) thereby commanding such marshal or constable to levy such fine or fines, together with his costs of the goods and chattels of such delinquent and if any such delinquent shall be under age and live with his father or mother, master or mistress, thereby commanding him to levy the same with costs aforesaid, of the goods and chattels, of such father or mother, master or mistress, as the case may be; and every such marshal or constable to whom any such list and warrant as aforesaid shall be directed and delivered, shall execute the same by levying and collecting the said fines as aforesaid, and shall make return thereof within forty days from the receipt of such warrant to the president who issued the same, and such marshal or constable shall be entitled to the same fees for collecting the said fines and subject to the same penalties for any neglect as are allowed and provided for on executions issued in pursuance of the act entitled "An act for the more speedy recovery of debts to the value of twenty five dollars.

Collection of fines of regimental courts martial.

And be it further enacted, That all fines imposed upon any commissioned officer by any court martial other than regimental courts martial, shall be levied and collected by warrant under the hand and seal of the officer having instituted the court martial, or in his absence by the commanding officer of the division, if such court martial was formed from the division, or by the commanding officer of the brigade, if such court martial was formed from the brigade, directed to any one adjutant of the brigade or person acting as such, to which the officer on whom such fine is imposed may belong in like manner as fines are to be recovered as aforesaid of non-commissioned officers and privates.—

Id., other than regimental.

And be it further enacted, That each brigade-inspector shall be entitled to receive fifty dollars per annum out of the fines collected within the brigade; and that the president and each member of every regimental court martial, while on that duty shall retain out of the fines collected as aforesaid on delinquents in such regiment, the sum of one dollar and twenty five cents per day, if a sufficiency shall be collected and the president of such court is hereby authorized to make such allowance to the non commissioned officers attending the said court as a compensation for their services as shall be reasonable.

Compensation of members of courts martial.

And be it further enacted, That all fines collected under this act, and not herein otherwise appropriated shall be paid to the commandant of

How fines appropriated.

the regiment or battalion, to be by him appropriated in such manner for the use of said regiment or battalion as he shall think proper; *provided always*, that such commandant shall pay to the brigade major of the brigade to which such regiment or battalion belongs his proportion of the sum of fifty dollars allowed him as aforesaid out of the fines so collected, which apportionment shall be determined according to the number of regiments, battalions, troops and companies in such brigade; *and provided also*, that the said commandant shall pay to the captain or commanding officer of any troop of horse or company of artillery such proportion of money as shall remain in his hands, of fines collected from such troop or companies, to be by him appropriated in such manner as he shall think proper, for the use of such troop or company; and it shall be the duty of all commandants of regiments and battalions, and captains or commanding officer of troops of horse or companies of artillery to produce an account of all receipts and expenditures under this act, to the brigadier or commanding officer of the brigade annually, on the first Tuesday in May in every year.—

Additional
exemption
from
militia
duty.

And be it further enacted, That in addition to persons exempted from militia duty, by the law of the United States hereinbefore recited, there shall be, and hereby are exempted, by this act from such duty as aforesaid, the following persons vizt the lieutenant governor of this State; the members of both houses of the legislature of this State and their respective officers; the chancellor; the chief justice and other justices of the supreme court; judge of the court of probates, and all other judicial officers of this State; secretary, treasurer, attorney-general and comptroller for this State; surveyor general; register and clerks of courts, sheriffs, coroners, constables and gaolers; two ferrimen employ to each boat; the surrogates in the several counties; all ministers and preachers of the gospel: Physicians and surgeons, except in their several professions and callings, the professors, teachers and students, in all colleges and academies within this State; all schoolmasters, engaged for at least three months, all post riders, the actual attendant of every grist mill, and all firemen, belonging to companies now established, or which hereafter may be established by law within this State; and also all persons actually employed as overseers, manufacturers and labourers at any furnace forge, or bloomery, for making iron; all such persons so employed in plating, rolling & slitting mills and manufacturing nails by water all such persons so employed at any furnace, or making iron castings, all such persons so employed at any glass house, for making glass, during the time they are so actually employed, notwithstanding their being above eighteen and under forty five years of age; *and further* that all persons who have heretofore been commissioned officers in the line of the army of the United States, and all officers who have served in the militia or levies of this State, or in the militia or levies of any of the United States, or in the militia or levies of the late Colony of New York, shall be, and hereby are exempted from serving in the militia of this State, *provided nevertheless*, that if any such officer shall be commissioned in the militia to a rank equal to that which he held in the said army, militia or levies, and shall refuse to accept such commission, such officer so refusing without giving satisfactory reason to the council of appointment for such refusal, shall be liable to serve in the militia, *and provided also*, that this exception shall not extend to any such persons being officers, who have gone over to and joined the enemy in the late war. *Provided also*, that no commissioned officer shall resign his commission, without first making application to the major general, or commanding officer of the division to which he belongs, and stating his

reasons in writing for the same, which resignations and reasons, shall be transmitted by the said commanding officer, to the commander in chief of the militia of this State, together with his opinion thereon, and in case any officer sends his resignation to the commander in chief, and the same be accepted by the council of appointment, without having pursued the mode herein prescribed, such officer shall be liable to do duty in the militia as a private.

And be it further enacted, That it shall be the duty of the several assessors within the city and county of New York, whenever they have assessed the property of any non-commissioned officer or private, belonging to the regiment of artillery in the said city and county, or property for which he is bound to pay the taxes for the purpose of levying a tax to defray the contingent expences of the said city and county, upon his producing such certificate, to deduct from such assessment the sum of five hundred dollars, and the residue only shall be the sum for which he shall be assessed. Exemption from assessment in New York city.

And be it further enacted, That any non-commissioned officer or matross of the said regiment of artillery in the city and county of New York who has uniformed himself and served four years in the said regiment after the twenty seventh day of August one thousand seven hundred and ninety eight shall be entitled to a certificate signed by the captain, and countersigned by the commandant of the regiment, purporting that he has served in uniform faithfully as above for the term of four years; which certificate shall exempt him from military duty in this State for life, except in cases of invasion or insurrection. Exempt militiamen in New York city.

And be it further enacted, That all persons, being of the people called Quakers, who would otherwise be subject to military duty, by virtue of this act, and who shall refuse personal military service, shall be exempted therefrom, on paying annually the sum of three dollars each, for such exemption. And it is hereby made the duty of every captain of infantry, within three months after he shall have received his commission, and yearly thereafter, on the last Tuesday in May to make a list of the names of all persons within his beat, who being of the people called Quakers, shall neglect or refuse, personally to perform military service, and deliver such list, signed by him to one of the assessors of the town or ward where such persons so neglecting or refusing to perform military service shall respectively reside, and the said assessors shall deliver the same list to the board of supervisors of the county wherein they reside at the time that they deliver the assessment roll of the town or ward whereof they are assessors and the said supervisors shall at their first meeting after the delivery of such lists cause tax lists to be made out, according to such lists so delivered, with warrants thereon, under their hands and seals, directed to the collector of the ward or town in which such persons, named in such lists respectively reside, for levying within sixty days thereafter the sum of three dollars, of the goods and chattels of each of the persons named in the same lists, and the said collectors are hereby respectively authorized and required, to demand and receive of each of the persons, named in such tax list, the said sum of three dollars, and in default of payment, such collector shall levy the said sum of three dollars, by distress and sale of the goods and chattels of the person so neglecting or refusing to pay the same, and in case any person, named in such tax list, shall be under age, and live with his father or mother or shall be then an apprentice or servant, the master or mistress or father or mother (as the case may be) shall be liable to pay the said sum of three dollars, for such person so under age, and in default of payment, the collector shall levy the same, by distress and sale of the Quakers.

goods and chattels of such father or mother, master or mistress; and the said respective collectors, shall respectively, pay within twenty days after the said monies shall be so collected the said monies to the person appointed by the brigadier-general for receiving the same within the limits of the brigade first deducting their fees for collecting which shall be the same as they are entitled to for collecting the monies raised for defraying the necessary and contingent charges of the said city or county; and the person so receiving the said exemption monies shall on or before the first Monday in March in every year, pay the same to the brigadier general, who shall cause the same to be equally distributed among all the captains or officers commanding companies of uniform troops within the limits of his brigade, to be by them respectively applied in furnishing necessary equipments, music and cloathing for their respective companies, and if the said collectors shall not collect and pay the same monies as aforesaid within the times to be specified for that purpose in the warrants aforesaid, they shall respectively be liable to a suit in the name of the person so to be appointed to receive the monies by the brigadier-general before any court having cognizance thereof for the recovery of all the monies so unpaid with costs unless they can shew that there were no goods or chattels on which to levy the same; and it shall be the duty of the brigadier-general to account annually with the comptroller of this State for all monies by him received under this act.

Commis-
saries of
military
stores.

And be it further enacted, That the person administering the government of this State, shall by and with the advice and consent of the council of appointment, appoint as often as it shall be requisite suitable persons, to take charge of the arms ammunition, cannon and military stores belonging at any time to the people of this State, and shall cause the same to be distributed or deposited in such place or places, as he shall from time to time direct. And that the treasurer of this State shall pay on the warrant of the comptroller to the commissary of military stores, for his service in the said office at the rate of two hundred dollars per annum; and to the deputy commissary of military stores for his services in taking charge of the arsenal near the city of Albany, and the military stores that may be deposited therein, for his services yearly the sum of one hundred dollars.—

CHAP. 167.

AN ACT concerning the inspection of pot and pearl ashes.

PASSED the 7th of April, 1801.

Inspectors
of pot and
pearl ashes

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the person administering the government of this State by and with the advice and consent of the council of appointment, shall from time to time appoint one inspector of pot and pearl ashes, in each city and county of this State where it shall be deemed necessary, *provided however* that the present inspectors of pot and pearl ashes, shall continue in office until others are appointed, and each inspector hereafter to be appointed, shall before he enters upon the execution of his office, take and subscribe the following oath before any person authorized to administer the same, or if in the city of New York or Albany, before the mayor or recorder thereof, viz I do solemnly swear, that I will faithfully, truly, and impartially to the best of my

judgment, skill and understanding, execute, do and perform the office and duty of an inspector or deputy inspector (as the case may be) and examiner of pot and pearl ashes according to law and that I will not directly or indirectly, by myself, or by any other person or persons for me, buy or sell any pot or pearl ashes, during the time I continue inspector, or deputy inspector (as the case may be) of the same, on my own account or upon the account of any other person or persons whomsoever. So help me God.

And be it further enacted, That no person whatsoever, shall ship any pot or pearl ashes for exportation, before he shall first submit the same, to the view and examination of an inspector appointed for that purpose, who shall start the same, out of the casks, and carefully examine, try and inspect the same, and sort the same in three different sorts, if necessary; that the said inspector shall put each sort by itself into tight casks, well hooped and coopered, which he shall distinguish by the words. "First sort," second sort, or third sort, with the words pot or pearl ashes, branded in plain legible letters, together with the letters of his name, and the place where such pot or pearl ashes are so inspected, at full length on each of the casks, and also shall weigh & mark with a marking iron on each cask the gross weight thereof, for which services, and also for the additional service of repacking the said pot or pearl ashes, and putting the casks in such condition as they were in when brought to him for inspection, and for weighing the same, and delivering to the proprietors an invoice or weigh note, under his hand, of the weight of each cask the said inspector shall have and receive nine cents for every hundred weight so inspected, one half to be paid by the purchaser, and the other half by the vendor. *Provided,* that if any such cask or casks shall, in the judgment of the inspector, be unfit for shipping, such further cooperage, or such new casks as may be necessary, shall be made or done at the expence of the vendor, *and provided further* that no inspector shall brand any cask containing pot or pearl ashes unless the same be twenty nine inches in length nineteen inches in diameter at each head, be full bound, be made of white oak staves and heading, or such other timber as the said inspector may think proper, and be sound and tight, and every inspector at the time of starting the said pot or pearl ashes for inspection shall weigh the casks, containing the same, and mark the tare thereon with a marking iron under the gross weight on each cask.

Inspection
of ashes;
branding
of casks.

How put
up.

And be it further enacted, That when any inspector shall on examination of any pot or pearl ashes submitted to him for inspection, discover any fraud, either by the mixture of stone, lime, salt or any other improper substance whatever, then and in such case it shall be the duty of the said inspector, to brand the cask containing such adulterated ashes, with the word "condemned" and the inspector shall be entitled to receive from the person owning or presenting such ashes for inspection the same compensation as though they had been good; and if any person shall offer, or expose for sale, any ashes so condemned as aforesaid, for any other than condemned ashes, he shall forfeit the sum of twenty five dollars for every barrel so exposed for sale, to be recovered by any person who will sue for the same before any court having cognizance thereof, the one half to the use of the poor of the said city or town where such recovery shall be had, and the other half to the use of the person who shall prosecute for the same to effect.

Condemn-
ed ashes.

And be it further enacted, That every such inspector shall have full power and authority, by virtue of this act, and without further or other warrant, to enter on board of any ship or vessel whatsoever, lying at or

Examina-
tion of
ships for
uninspect-
ed ashes.

being in the harbour where such inspector is authorised to inspect pot or pearl ashes, to search for any pot or pearl ashes, shipped or shipping on board any such vessel for exportation out of this State: And if such inspector shall on search, discover any cask of pot or pearl ashes not branded as before directed, the person so shipping or having shipped the same shall forfeit every such cask of pot or pearl ashes so shipped or shipping, and not branded in the manner herein before directed; and the master or commander of any such vessel, who shall receive any such cask or casks of pot or pearl ashes not branded as aforesaid, shall forfeit the sum of twelve dollars and fifty cents; and if any master of any ship or vessel, or any of his servants or seamen shall obstruct or hinder the said inspector in making such search as aforesaid; every person so offending shall, for such offence, forfeit the sum of twenty five dollars—

Where
ashes to be
inspected.

And be it further enacted, That all pot or pearl ashes shipped for exportation, from any port of this State shall be inspected at the place where the said pot or pearl ashes may be so shipped for exportation out of this State, having the name of the place where it shall be shipped, and the letters of the inspectors name, who has inspected and examined the same as before directed.

Delay by
inspectors.

And be it further enacted That if any inspector aforesaid, not then employed in the duties of his said office, shall on application to him, to examine any pot or pearl ashes, refuse or delay to proceed to such examination and inspection for the space of three hours thereafter, every such inspector, shall for each offence forfeit two dollars and fifty cents to the use of the person so delayed.

Counter-
feiting
brand
marks.

And be it further enacted That if any person shall counterfeit any of the brand marks aforesaid of the said inspectors, or impress or brand the same on any cask of pot or pearl ashes, knowing such brand mark or impression to be counterfeit; or if any person shall empty any cask of pot or pearl ashes, branded as aforesaid, in order to put in other pot or pearl ashes for sale or exportation, without first cutting out the said brand marks every such person being thereof legally convicted, shall for each offence forfeit and pay the sum of one hundred and twenty five dollars—

Deputies.

And be it further enacted That it shall be lawful for any inspector as aforesaid to appoint under his hand and seal one or more deputies, to assist him in performing the duties of his office & the same to remove whenever he may think proper, and all such duties performed by deputies, shall be in the name of the inspector appointing them, who shall be responsible for the faithful conduct of his deputies, and all such deputies, shall after being appointed as aforesaid, and before they enter upon the duties of their office, respectively take and subscribe an oath in the manner and form as is herein before described—

Recovery
of forfeit-
ures.

And be it further enacted, That all fines and forfeitures, aforesaid shall be recoverable in the same manner as other debts of the same value are recoverable by action of debt or by information the one moiety thereof when recovered (except where the same are herein otherwise applied), to the use of the person suing for the same, and the other moiety to the use of the poor of the city or town where the offence was committed.—

CHAP. 168.

AN ACT relative to the election of charter officers, and relative to weigh-masters in the city of New York.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That all officers to be chosen or appointed in and for the city of New York, by virtue of the charter thereof, shall be chosen or appointed on the third Tuesday in November in every year, and not on the twenty ninth day of September in such year, and shall be sworn into and commence the duties of their respective offices on the first Monday in December thereafter. When charter elections in New York city held.

And be it further enacted, That the mayor, aldermen and commonalty of the said city, shall on such day in the month of November, in every year, as to them shall seem meet, at least eight days before the annual day of election above established, fix upon a proper place in each of the wards of the said city, where such election shall be held, and nominate and appoint a fit and discreet person for each of the said wards, being a resident in such ward, and a freeholder there, or a freeman of the said city, to preside at and be the inspector or returning officer at every election, for officers in such ward during the year then next ensuing; *and further,* that in case any of the said inspectors shall die, remove out of the said city, refuse to serve, or be rendered incapable of attending any of the said elections, before or on the day on which the same is to be held, that it shall be lawful for the said mayor, aldermen and commonalty in every such case, to appoint another such person as aforesaid, to be an inspector of the said election, in the room of the person before appointed. *And further,* that each of the said inspectors shall appoint a proper person to act as clerk, at each election to be held in the ward for which he shall be so appointed, and shall, before he proceeds to any such election, tender and administer to such clerk, the oath following, to wit, I do solemnly and sincerely swear and declare, in the presence of Almighty God, that I will truly and impartially execute the trust reposed in me as clerk of this election," and that the said clerk shall upon every such election, in the presence of the said inspector, and in a poll book to be provided for that purpose, set down the name of each voter, and that of the person for whom he shall vote, and whether he votes as a freeholder or freeman, which said poll book shall, upon the closing of the poll, at every such election, be subscribed with the proper name and hand writing of such inspector, and be by him delivered to the clerk of the said city or his deputy. *And further,* that every such clerk of election shall be allowed for his services at each election the sum of two dollars, to be paid by the said mayor aldermen and commonalty. Polling places; election officers

And be it further enacted, That if any of the aldermen, or other officers of the said city chosen as aforesaid, shall refuse to serve or die, or remove out of the said city, before the expiration of the time for which he was chosen to serve in any such office, or shall not be legally qualified to serve in such office, then and in every such case, such office shall be deemed to be vacant, and the said mayor, aldermen and commonalty in common council convened, shall order an election to be held to fill every such vacancy, and appoint a place in the ward for which such election is to be held, and a time not less than five Vacancies in city offices

days after the making of such appointment for holding such election, and shall forthwith give notice thereof to the inspector of the ward in which such vacancy shall happen, and the said inspector shall thereupon forthwith cause the same to be published by advertisements put up in at least three of the most public places in such ward.

Neglect of
inspector
to act.

And be it further enacted, That if any person who shall be appointed an inspector as aforesaid, shall neglect or refuse to execute the said office, he shall forfeit for every such offence the sum of fifty dollars, to be recovered, levied, collected and applied in the mode pointed out by the charter to the mayor, aldermen and commonalty.

When no
inspector
attends.

And be it further enacted, That in case the said mayor, aldermen and commonalty, shall in any instance neglect to appoint an inspector for any of the said elections, or such inspector shall not attend, or do the duty of his office, then and in every such case, such election shall be held in the manner directed by the charter of the said city.

Freehold-
ers.

And be it further enacted, That no person shall vote as a freeholder at any of the said elections, unless he shall be possessed of a freehold estate, in lands or tenements in his own right, or that of his wife, to the value of fifty dollars over and above all the debts charged thereon, within the ward where he shall vote, and shall have possessed the same (except it came to him by descent or devise) at least one month before the day of such election.

Freemen.

And further, that no person shall vote as a freeman of the said city, at any of the said elections, unless he shall have been admitted to the freedom of the said city, at least three months, and have actually resided in the ward for which he shall so vote, at least for one month before the day of such election. *And further,* that every person offering to vote as a freeholder at any such election, shall, before he be admitted to vote, take the following oath, if required so to do by the inspector of such election, that is to say; "I do solemnly and sincerely swear and declare that I am a freeholder, and that I hold my estate by descent or devise (if such shall be the case, or if he shall not so hold, then) and that I have been so for one month next preceding this election, and possessed in my own right (or in my wife's right) (as the case may be) of a freehold of the value of fifty dollars in the ward in which I now offer to vote; that I do not hold the same in trust for any body politic or corporate, or for any pious or religious use whatsoever; that I have not before been polled at this election by virtue of the said freehold, and that I have not procured the said freehold under any obligation or promise to convey the same to any other person after this election. And in like manner every person offering to vote as a freeman of the said city, at any such election, shall, if required so to do by the said inspector, take the following oath before he shall be admitted to vote at such election, that is to say; "I do solemnly and sincerely swear and declare in the presence of Almighty God, that I am, and have been for three months last past, a freeman of the city of New York, and have actually resided in the ward in which I now offer to vote, for one month last past, and that I have not been before polled at this election; and if any person offering to vote as a freeholder or freeman as aforesaid, shall refuse to take the oath above prescribed to be by him taken, when thereunto required by the inspector as aforesaid, his vote shall be rejected.

Who
deemed
freeholders

And be it further enacted, That every mortgagor or mortgagee when in possession of the mortgaged premises, and not otherwise, shall be deemed a freeholder within the meaning of this act; and that no person holding lands tenements or hereditaments, in trust for any body politic or corporate, or for any religious or pious use or purpose, shall thereby

acquire or possess a right to vote, nor shall any person under the age of twenty one years, be qualified to vote at any such election.

And be it further enacted That it shall be lawful for every person hereafter appointed mayor of the said city, at any time within twenty days after such appointment, to take the oaths prescribed by the charter of the said city, to be taken by such mayor before such person or persons as may be appointed by commission under the great seal of this State, in the nature of a *dedimus potestatem* to administer the oaths required to be taken by persons holding offices under this State in the said city, instead of taking the said oaths in the presence of three or more of the aldermen of the said city.

Oath of
office of
mayor.

And be it further enacted, That it shall be lawful for the person administering the government of this State, by and with the advice and consent of the council of appointment, yearly hereafter, to appoint the several charter officers of the the said city of New York, who are to be annually so appointed, at any time during the session of the legislature in each year, and every officer so appointed, shall hold his office for one year, from the time of his appointment, and until another shall be appointed and sworn in his stead.

Appoint-
ment of
city officers

And be it further enacted, That no physician, surgeon, clerk or attorney of any court of record, or any person who shall have served as a member or clerk of the senate or assembly, or in any office in the corporation of the said city, superior to that of collector or constable shall be compelled to serve in the said office of collector or constable within the said city.

Exemption
from serv-
ice in cer-
tain offices.

And be it further enacted, That the said mayor, aldermen and commonalty may appoint as many weigh-masters for the said city, as they shall from time to time think necessary, and the same displace and appoint others in their stead, whenever they may think proper; and also fix and alter the compensations to such weighmasters and every weigh master so by them to be appointed shall before he enters upon the duties of his office, take and subscribe the following oath or affirmation before the mayor or recorder of the said city, vizt I do solemnly and sincerely swear (or affirm as the case may be) that I will faithfully and honestly to the best of my skill and understanding, perform the duties of a weigh master in the city of New York.—

Weigh-
masters.

CHAP. 169.

AN ACT to prevent and avoid alienations by tenants for life, and recoveries by collusion.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That if any woman, who hath, or hereafter shall have any estate in dower, or for term of life jointly with her husband, or only to herself, or to her use, in any lands tenements or hereditaments, of the inheritance or purchase of her husband, or given to the said husband and his wife for term of life, by any of the ancestors of the said husband, or by any other person seised to the use of the said husband or of his ancestors, and being sole, or with any subsequent husband, or with any other person seised to their or either of their use of such estate, shall discontinue, alien, release or confirm, with or without war-

Avoidance
of aliena-
tion of
wife's
property
by hus-
band.

ranty, or shall suffer any recovery by covin, against her, or them, or any other seised to their use, or to the use of either of them; all such recoveries, discontinuances, alienations, releases, confirmations and warranties, shall be void; and if such woman be at the time married, then it shall be lawful for the person, to whom the said lands, tenements or hereditaments, ought to belong, after the decease of the said woman, immediately to enter into the same, and them to possess during the life of the said husband, according to such title and interest as he would have had in the same, if the same women had been dead, and no discontinuance, warranty nor recovery had; but the said woman, in such case, after the decease of the said husband, may re-enter into the same lands, tenements, and hereditaments, and enjoy the same according to her first estate therein. But if the said woman, at the time of such discontinuance, alienation, recovery or warranty, be sole, then she shall be barred of her title and interest in the same, and the person to whom the title, interest and possession of the same should belong, after the decease of the said woman, shall immediately enter into the same lands, tenements and other hereditaments, and possess and enjoy the same according to his title; *provided always*, that this act shall not extend to any such recovery or discontinuance had, with the heirs next inheritable to the said woman, or where he or they, that next after the death of the same woman, should have estate of inheritance in the same lands, tenements or hereditaments, be assenting to the said recovery, where the same assent be, by deed or of record; *and provided also*, that it shall be lawful for every such woman, being sole or married, after the death of her first husband, to give, sell or make discontinuance of any such lands, tenements or hereditments for term of her life only, after the course of the common law.

And be it further enacted, That no fine, feoffment or other act, suffered or done by the husband only, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife during the coverture between them, shall prejudice the said wife or her heirs, or such as shall have right or interest to the same, upon the death of such wife; but they may respectively enter into and enjoy the same, according to their rights and titles therein, as if no such act had been done or suffered.

And be it further enacted, That if the husband lose by default the land which was the right of the wife, the wife, after the death of her husband, may have a writ of right, or an action of ejectment, to recover the same, and the judgment by default, shall be no bar to such action: And if any tenant in dower, tenant by the curtesy, or other tenant for term of life or lives, who shall be impleaded, make default or give up the lands demanded, and judgment be given upon such default or surrender, the heirs or person to whom the reversion or remainder doth appertain, after the death of such tenants, may have their action of ejectment to recover the same lands.

And be it further enacted, That when any husband and wife shall be impleaded, if the husband absent himself, and will not defend his wife's right, or against his wife's consent will render the land, if the wife do come before judgment, to defend her right, she shall be admitted without her husband.

And be it further enacted, That if any tenant in dower, tenant by the curtesy or other tenant for term of life or lives, be impleaded, and the person to whom the reversion or remainder shall appertain, shall come into court and pray to be received to defend his right, at the day that the tenant pleaded to the action, or before, and before judgment, such

Fines suffered by husband not to prejudice right of wife.

Default by husband.

Where wife impleaded.

Pleas of persons entitled to remainder or reversion.

person shall be received to defend his right, and to plead to the action, upon such terms as the court shall in its discretion deem just and equitable.

And be it further enacted, That if any tenant for term of life, tenant in dower or tenant by the curtesy, be impleaded and have judgment against him by default or otherwise, the person to whom the reversion or remainder of the tenements so lost, shall appertain, at the time of such judgment given, and his heirs, shall have a writ of error, if error be found in the record of such judgment, as well in the life time of such tenant, as after his death. And if such judgment be reversed, the tenant who lost by the first judgment, if he or she shall be in life, shall be restored to the possession of the tenements so lost, with the issues in the mean time; and the party pursuing to the arrearages of rent, if any be due for the same tenements; and if such tenant be dead, at the time of the judgment given upon such writ of error, restitution shall be made to the party pursuing, with the issues, after the death of the said tenant, together with the arrearages of rent, if any were due, in the life time of the said tenant. *Provided always,* that although the tenant who so lost by the first judgment, be in life, if the party pursuing, will alledge, that, the same tenant assented by covin, that such tenements should be lost, restitution of the same tenements shall be made to the party pursuing, with the issues and arrearages as aforesaid; but such tenant may have a writ of scire facias upon the same judgment so reversed or given, on such writ of error if he or she will traverse the covin and assent aforesaid, and not otherwise.

Writs of error, where tenant allows default.

And be it further enacted, That if any person alien any tenement, which he shall hold by the curtesy, his children shall not be barred by the deed of their father, to demand and recover of the seisin of their mother, although the deed of their father mention that he and his heirs be bound to warranty; nor shall the issue of any such children be barred in such case. And the heirs of the wife, shall not be barred of their action, after the death of their father and mother, by the deed of their father, if they demand by action the inheritance of their mother, which their father did alien in the life time of their mother.

Rights of children to recover seisin of mother.

And be it further enacted, That the suit of the wife or her heirs after the death of her husband for lands aliened by the husband, shall not be delayed by the nonage of the heirs who ought to warrant; but every purchaser shall be delayed until the full age of his warrantor, to have his warranty.

Suits not delayed by nonage.

And be it further enacted, That all recoveries had or prosecuted, by agreement of the parties, or by covin, against any tenant seised of any life estate, of any lands, tenements or hereditaments, or against any other, with voucher over of any such particular tenant, or of any having right or title thereto, shall as against such persons to whom any reversion or remainder thereof may appertain, and against their heirs be void; *provided always,* that nothing herein contained shall extend to, or prejudice any person, who shall recover any lands, tenements or hereditaments without fraud or covin, by reason of any former right or title; but every such recovery shall be of like force and effect, as if this act had not been made; *provided also,* that every such recovery by the assent of any person, to whom any reversion or remainder thereof shall appertain, if the same assent do appear of record in the court where such recovery shall be had, shall be of like force and effect, against such person and his heirs, as if this act had not been made.

Recoveries by covin declared void.

And be it further enacted, That every lessee for years, may falsify, for his term only, recoveries in such wise and form, as a tenement of the

Falsification of re-

coveries by lessees. freehold may do, by the course of the common law, where such tenant of the freehold was neither privy nor party to the same recovery; and such lessees, their executors, administrators and assigns notwithstanding such recoveries, shall hold their said terms, according to their leases, against all such recoverers, their heirs and assigns, as they might have done against the said lessors, if such recovery had not been had nor suffered. And the said recoverers their heirs and assigns, after such recovery had, shall have the like remedy against the said lessees, their executors, administrators and assigns, for the rents and services reserved upon the same leases, coming due after the same recoveries; and also like actions against them for waste done, after the same recoveries, as the said lessors might have had, if the same recoveries had never been had. And no execution shall be avoided by means of any such feigned recovery; but all persons entitled to have execution of any lands, tenements or hereditaments shall have like means to avoid and falsify the same recoveries, as is provided, for the lessees for term of years.

CHAP. 170.

AN ACT to reduce certain laws concerning costs into one statute.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly That if any person shall sue in any court of record within this State, any action real, personal, or mixed, or upon any statute for any offence or wrong immediately personal to the plaintiff, and shall recover damages in such action, then the plaintiff or demandant shall have judgment to recover costs against the defendant to be taxed and the same shall be recovered, together with the damages, by execution against the body or estate of the defendant.

And be it further enacted, That if any person shall sue in any court of record within this State, any action, wherein the plaintiff or demandant might have costs (in case judgment be given for him) and he be nonsuited after appearance of the defendant or a verdict pass against him, then the defendant shall have judgment to recover his costs against the plaintiff (except against executors, and administrators prosecuting in the right of their testator or intestate) or demandant to be taxed, and the same shall be recovered against the plaintiff or demandant by like process, as the plaintiff or demandant might have had against the defendant in case judgment had been given for such plaintiff or demandant.

And be it further enacted That every person making avowry, justification or cognizance in any replevin or second deliverance, if the same be found for him, or the plaintiff be nonsuited or otherwise barred, then such person shall recover his damages and costs against the plaintiff in like manner as the plaintiff would have done, if the same had been found against the defendant.

And be it further enacted That if in any personal action prosecuted in the supreme court, the plaintiff shall not recover above the sum of fifty dollars besides costs, he shall not recover any costs but shall pay costs to the defendant to be taxed, and the defendant shall have judgment and execution for the same, in like manner as if a verdict had been given for him; *and further* that if in any personal action prosecuted in the supreme court, the plaintiff shall recover a debt or sum which ex-

clusive of costs shall be upwards of fifty, and not exceeding two hundred and fifty dollars, then the plaintiff shall recover no more or other costs than he would have been entitled to, if such action had been prosecuted, and determined in any mayor's court, or court of common pleas in this State; *provided always*, that such costs shall not exceed the sum of twenty five dollars; *and provided also*, that in all cases where any action commenced in any mayor's court or court of common pleas, shall be removed into the supreme court by the defendant, if the plaintiff recover therein any sum exceeding twenty five dollars besides costs, he shall recover costs in the supreme court, together with the costs in the court below, including all such expences as the plaintiff shall have been put to in the prosecution of such action; *and provided further*, that nothing in this section shall extend to any action, wherein the people of this State are interested; nor to any action where freehold or title to lands or tenements shall in any wise come in question; nor to actions of replevin, or of assault and battery, or false imprisonment, or slander, nor to any action by or against the mayor, aldermen and commonalty of the cities of New York or Albany, or the mayor, recorder, aldermen and commonalty of the city of Hudson, or the mayor aldermen and commonalty of the city of Schenectady.

And be it further enacted That if any action not concerning any freehold or title of land, nor for any assault, battery or imprisonment, replevin, slander or malicious prosecution, nor by or against executors or administrators, be brought into any court of common pleas or mayor's court, and the plaintiff shall not recover above the sum of twenty five dollars, he shall not recover any costs but shall pay costs to the defendant to be taxed, for which the defendant shall have execution against the body or estate of the plaintiff. *Provided always*, that where the demand of the plaintiff or the accounts between the parties, exceed two hundred dollars to be certified on the record by any judge before whom the cause shall be tried, if by reason of payments or discount, the plaintiff shall recover less than twenty five dollars exclusive of costs then in such case the plaintiff shall recover his costs of suit to be taxed.

And be it further enacted, That in all actions of trespass, and of assault and battery prosecuted in the supreme court, wherein the judge at the trial of the cause shall not find and certify under his hand, upon the back of the record, that an assault and battery was sufficiently proved by the plaintiff, against the defendant, or that the freehold or title of the land mentioned in the plaintiff's declaration, was chiefly in question, the plaintiff in such action, in case the jury shall find the damages to be under the value of five dollars, shall not recover more costs of suit than the damages so found shall amount unto; and if any more costs in any such action shall be awarded, the judgment shall be void, and the defendant may have his action against the plaintiff for such vexatious suit and recover his damages and costs of such suit.

And be it further enacted That in all actions upon the case for slanderous words, to be prosecuted by any person in the supreme court, if the jury upon the trial of the issue in such action, or the jury that shall enquire of the damages, do find or assess the damages under five dollars then the plaintiff in such action shall recover only so much costs as the damages so given or assessed amount unto, without any further increase of the same.

And be it further enacted That in all actions of trespass to be prosecuted in any court of record within this State, wherein at the trial of the cause it shall appear and be certified by the judge, under his hand, upon the back of the record, that the trespass upon which any defend-

Common
pleas.Trespass
and
assault.

Slander.

Trespass,
action in
court of
record.

ant shall be found guilty, was wilful and malicious, the plaintiff shall recover not only his damages, but his full costs of suit.—

Scire facias
and writs
of prohibition.

And be it further enacted That in all suits upon any writ of scire facias and suits upon prohibition, the plaintiff obtaining judgment, or any award of execution, after plea pleaded or demurrer joined therein, shall likewise recover his costs of suit; and if the plaintiff shall become nonsuit or suffer a discontinuance, or a verdict shall pass against him, the defendant shall recover his costs, and have execution for the same in manner aforesaid.

Where
several
defendants

And be it further enacted That where several persons are made defendants to any action of trespass, assault, false imprisonment, or ejectment, and any one or more of them shall be, upon the trial thereof, acquitted by verdict, every person so acquitted shall recover his costs of suit, in like manner as if a verdict of acquittal had been given in favor of all the defendants, unless the judge before whom such cause shall be tried shall immediately after the trial thereof, in open court, certify upon the record under his hand that there was a reasonable cause for the making such person a defendant to such action.

Default,
where
defendant
arrested.

And be it further enacted That when any person shall sue out of any court any process against any person who shall be imprisoned on the same, or upon the return of the process shall put in bail, or cause his appearance to be entered, as the case may require, then if the plaintiff shall not before the end of the next term after the return of the process, or after such bail put in, or appearance entered, put into court his declaration against the defendant or if after declaration put in, he shall suffer the suit to be discontinued, or otherwise shall be nonsuited in the same, then and in every such case the court may at its discretion adjudge costs to the defendant to be taxed against the plaintiff, and for which the defendant may have execution as aforesaid.

Demurrers.

And be it further enacted, That if any person shall prosecute in any court of record any action wherein upon any demurrer by either party to the action, judgment shall be given against the plaintiff or demandant; or if at any time after such judgment, the plaintiff or demandant shall sue any writ of error on the judgment, and the said judgment shall be affirmed or the writ of error shall be discontinued, or the plaintiff nonsuited therein, the defendant in such action or writ of error shall recover costs against the plaintiff or demandant, and have execution for the same as aforesaid.

Writs of
error.

And be it further enacted, That if any person bound by any judgment in any court of record shall before execution had, sue any writ of error to reverse the judgment and the same judgment be affirmed or the writ of error be discontinued or the plaintiff in error nonsuited, then and in such case the defendant in error shall recover his costs and damages for the delay and vexation to be assessed and taxed by the discretion of the court before whom the said writ of error is returnable, and shall have execution for the same in manner aforesaid.

Id.

And be it further enacted That if any person shall prosecute any writ of error for reversal of any judgment given after verdict in any of the courts aforesaid, and the judgment be affirmed then such plaintiff in error shall pay to the defendant in error his double costs to be assessed by the court where such writ of error shall be depending for the delay of execution.

Id.

And be it further enacted, That upon quashing any writ of error for variance from the original record, or other defect the defendant in such writ shall recover against the plaintiff his costs as he would have done if the judgment had been affirmed and to be recovered in like manner.

And be it further enacted That upon the plaintiff's dismissing his own bill in equity, or the defendant dismissing the same, for want of prosecution, the plaintiff shall pay to the defendant full costs to be taxed. Want of prosecution.

And be it further enacted, That in all suits commenced upon any specialty made to the people of this State, or to any person for their use, the people or other plaintiff shall recover the debt damages and costs as any other person in the like cases. Suits in specialty.

And be it further enacted That where any action shall be prosecuted in the name of any person for any debt or sum of money due to the people of this State and the plaintiff shall be nonsuited therein, or if a verdict shall pass against the plaintiff, the defendant shall not recover any costs against such plaintiff. Actions for money due people.

And be it further enacted That nothing in this act contained shall extend to any popular action nor to any action to be prosecuted by any person in behalf of himself and the people of this State upon any penal statute; nor to any indictment, presentment or inquisition. To what actions act not to extend.

CHAP. 171.

AN ACT for building a court house and gaol in the county of Onondaga.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the supervisors of the several towns in the county of Onondaga for the time being, or a majority of them, shall be and hereby are authorized to direct to be raised and levied on the freeholders and inhabitants of the said county, the sum of three thousand dollars for building a court house and gaol in the said county, with the additional sum of five cents on each dollar for collecting the same which said sums shall be raised, levied and collected in the same manner as the other necessary and contingent charges of the said county are levied and collected. Tax levy for court-house and jail.

And be it further enacted, That it shall be lawful for the supervisors and judges of the court of common pleas in the said county, or a majority of them to appoint three commissioners to superintend the building the court house and gaol which shall be erected in the town of Onondaga in the county aforesaid, on lot number one hundred and four at such place as the said judges and supervisors or a majority of them shall designate for that purpose on such plan as the said commissioners or a major part of them so to be appointed, shall judge best; and the said commissioners or a major part of them may contract with workmen and purchase materials for erecting the said court house and gaol, and shall from time to time draw upon the treasurer of the said county for such sums of money for the purposes aforesaid as shall come into the treasury by virtue of this act and the treasurer is hereby required out of the monies aforesaid to pay to the order of the said commissioners, the several sums of money to be by them drawn for; and it is hereby made the duty of such commissioners so to be appointed to account with the supervisors of the said county for the monies which they shall have received from the treasury when thereunto required. Erection of buildings.

And be it further enacted, That it may and shall be lawful for the treasurer of the said county to retain in his hands the sum of one cent on each dollar for his trouble in receiving and paying out the monies directed to be raised by this act. Fees of treasurer.

CHAP. 172.

AN ACT directing the gaol of the county of Otsego to be used as the gaol of the county of Chenango.—

PASSED the 7th of April, 1801.

Chenango
prisoners
in Otsego
jail.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That it shall and may be lawful for all courts and officers of the county of Chenango, in all cases civil, military and criminal, to confine their prisoners in the gaol of the county of Otsego until further legislative provision shall be made in the premises.

Payments
for use of
jail.

And be it further enacted, That the treasurer of the county of Chenango, shall annually on the second Tuesday of May, in every year, during the continuance of this act, pay to the treasurer of the county of Otsego, for the use of said county, the sum of fifteen dollars, which sum shall be levied and collected of the freeholders and inhabitants of said county of Chenango, in the same manner as other contingent county charges are by law directed to be levied and collected.

CHAP. 173.

AN ACT for the support of government.

PASSED the 7th of April, 1801.

Salaries
of State
officers.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That there shall be allowed to the several officers of government hereinafter mentioned, the following annual salaries; to the person administering the government of this State the sum of three thousand seven hundred and fifty dollars. To the chancellor the sum of two thousand dollars; to the chief justice the sum of two thousand dollars, and to each of the other four judges of the supreme court the sum of one thousand eight hundred and seventy five dollars; but this provision shall not be construed to extend to any judges of the said court that may be appointed after their number shall amount to five to the treasurer the sum of one thousand six hundred dollars including clerk hire, office hire and stationary; to the secretary of this State the sum of one thousand five hundred dollars; to the attorney-general the sum of two thousand dollars; to the private secretary of the person administering the government of this State the sum of three hundred and twelve dollars and fifty cents; and the said annual sums shall be payable in equal quarterly payments at the treasury, by the treasurer on the warrant of the comptroller on the first days of April, July, October and January in every year; and shall be computed as becoming due to the said several officers in proportion to the times for which they shall hold their respective offices, and the said annual sums to the treasurer may be retained by him in quarterly payments as aforesaid on the warrant of the comptroller, and the comptroller shall issue his warrant to the treasurer to pay the said annual sums in quarterly payments aforesaid upon the receipt of a certificate signed by the person administering the government of this State and under the privy seal of the State certifying, that at the time when the last quarterly payment became due the person or persons in whose favor the certificate may be given, held

the said office or offices for which such person or persons may demand a compensation, and if any person shall cease to hold any of the said offices at any time between the times above prescribed for quarterly payments, such certificates shall specify the time when he ceased to hold such office, but no such certificate shall be necessary for the person administering the government of this State, and the comptroller shall draw his warrant for such sums as shall become due to him as aforesaid without any certificate.—

And be it further enacted, That it shall not be lawful for the chancellor or judges of the supreme court, to demand or receive any fees or perquisites for any thing done by either of them in virtue of their offices.—

Judges not to receive fees.

And be it further enacted, That at every session of the legislature the president of the senate and speaker of the assembly shall each be entitled to receive three dollars and seventy five cents for every day he shall attend in his station, and that each member of the senate and assembly shall be entitled to receive two dollars and fifty cents for every day he shall attend either of the said houses respectively; and the like compensation to the president of the senate, the speaker of the assembly, and to the other members of the legislature, for every twenty miles of the distance from the place of his residence to the place of meeting of the legislature; and such distance shall be estimated by the most usual road and shall be computed both for travelling to and returning from the place of their said meeting; and if any member of the senate or assembly shall after his arrival at the place of their said meeting be prevented by sickness from attending either of the said houses respectively, he shall be entitled to the like daily allowance as aforesaid for every day he shall be so prevented, and the comptroller shall issue his warrant to the treasurer for the payment of such sum as may so become due to each member respectively, upon the receipt of a certificate signed by the president of the senate or the speaker of the assembly, as the case may be, setting forth the number of days that the member in whose favor it shall be given may have attended either house respectively, and the estimated distance of his place of residence, from the place of the meeting of the legislature,

Members of the legislature.

And be it further enacted, That there shall be allowed and paid to each of the clerks of the senate and assembly the sum of three dollars and seventy five cents per day for their respective services during the session of the legislature and also the amount of such sums for the contingent expences of the two houses, as may from time to time, during the sessions of the legislature, be certified to be necessary, by the president of the senate and speaker of the assembly respectively and also for engrossing each sheet or folio of seventy two words twelve and an half cents and six and an half cents per folio of seventy two words for copying the journals for the governor, resolutions to either house for concurrence and copies furnished the State printer and for issuing notices of vacancies in the senate as directed by law, fifty cents, and such accounts with the vouchers for the same shall be audited and allowed by the comptroller, and there shall also be allowed and paid to the serjeant at arms and the door keepers of the senate and assembly each the sum of two dollars for every day they shall attend the legislature agreeable to such certificate thereof as they shall respectively produce certified by the president of the senate or speaker of the assembly as the case may require; for the payment of which several compensations and sums of money the comptroller shall issue his warrant to the treasurer after the same are allowed and certified as aforesaid.

Clerks and officers of legislature.

Council of
appoint-
ment.

And be it further enacted, That the members of the council of appointment, for each day of their attendance in council, during the recess of the legislature, and for travelling from and to their respective places of residence, shall be entitled to the like compensation as hath been before prescribed for the members of the legislature, and the comptroller shall issue his warrant to the treasurer for the payment of the sums that may so become due to them respectively, upon the receipt of a certificate, signed by the person administering the government of this State setting forth the number of days that they may have severally attended in council, and the distance of their several places of residence from the place of their meeting and the sums due to them severally on that account.

Secretary
of State.

And be it further enacted, That the comptroller shall annually issue his warrant to the treasurer for payment to the secretary of this State the amount of the necessary expences of his office to be audited by the comptroller *provided* they do not exceed in any one year the sum of one thousand two hundred and fifty dollars, and the said secretary shall also be entitled to the rents and profits of the house in the city of New York now in his possession the property of which is vested in the people of this State but the office of the said secretary shall continue to be kept and held in the public building erected for that purpose in the city of Albany.—

Fees of
secretary.

And be it further enacted, That the said secretary shall continue to receive all such fees as he is or shall from time to time be by law permitted to take and shall keep an account thereof and shall exhibit such account quarterly to the comptroller of this State who having examined and filed the same in his office shall certify to the treasurer the amount thereof and the said secretary shall pay the same to the treasurer *provided* that no fee shall be taken for any civil or military commission whatever.

From what
funds sal-
aries pay-
able.

And be it further enacted, That the several sums herein before directed to be paid shall be payable out of any revenue arising or to arise from any of the funded debt of the United States, belonging to the people of this State, or from any monies loaned by this State or from any revenue arising to the people of this State in any manner whatever, and the said revenue or so much thereof as shall be necessary for that purpose is hereby appropriated for paying the several sums of money by this act directed to be paid.—

Clerks' fees
for regis-
tering
mortgages.

And be it further enacted, That the treasurer shall from time to time pay to the clerks of the respective counties in this State such sums of money as shall be certified by the comptroller to be due to them for registering or recording any mortgage to the people of this State in behalf of this State and for their services and expences in performing the duties required of them by the act entitled "An act concerning oaths."—

CHAP. 174.

AN ACT concerning executors and administrators, and the distribution of intestates estates.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly That the executors and administrators of any testator or intestate with the aid and in the presence of two persons at

Inventory
of personal
estate.

least, being legatees or creditors of such testator or intestate, and in case of their absence or default two other persons being next of kin to the deceased; and in their absence or default two other competent persons shall make or cause to be made a true and perfect inventory of all the goods, chattels and credits of such testator or intestate, and shall cause the same to be indented, one part whereof, shall be delivered to the judge of the court of probates or surrogate in whose office the will of the testator was proved, or administration granted within six months after probate of the will or administration granted, upon the oath of such executors or administrators to be taken before the said judge or surrogate, that such inventory is just and true, and the other part whereof shall remain with said executors or administrators.

And be it further enacted, That no executor or administrator shall be cited in the court of probates, or be compelled to render an account of the personal estate of his testator or intestate otherwise than by an inventory or inventories thereof, unless it be at the instance or prosecution of some person in behalf of a minor or having a demand out of such personal estate, as creditor, legatee or next of kin.

Executors and administrators to account by inventory.

And be it further enacted, That administrators shall have actions to demand and recover in like manner as executors the debts due to their intestate, and shall answer and be accountable to others to whom the intestate was holden or bound, in the same manner as executors.

Actions by administrators

And be it further enacted, That actions of account shall and may be brought and maintained by and against executors or administrators in all cases in which the same might have been maintained by or against their respective testators or intestates.

Actions of account.

And be it further enacted, That executors and administrators shall have actions of trespass for taking and carrying away the goods of their testator or intestate in his life time, and that any person, his executors or administrators shall have the like actions of trespass against the executors or administrators of any testator or intestate, who in his life time shall have wasted, destroyed taken or carried away or converted to his own use the goods or chattels of any such person, and shall have the like process, judgment and execution as in other actions against executors and administrators.

Actions of trespass.

And be it further enacted, That executors of executors shall have actions of debt, account and trespass for goods carried away of the first testator, and executions of judgments obtained by, or of recognizances made to the first testator in the same manner as he might have, if living, and that such executors of executors shall answer to others for the same, as the first executors should do, if living.

Executors of executors.

And be it further enacted, That the executors and administrators of every person who as executor either of right or in his own wrong, or as administrator shall have wasted or converted to his own use any goods, chattels or estate of any deceased person shall be chargeable in the same manner as their testator or intestate would have been, if living.

Waste by executors or administrators.

And be it further enacted, That an administrator de bonis non may sue forth a scire facias and have execution on any judgment obtained by or in the name of any previous executor or administrator of the same estate.

Administrator de bonis non.

And be it further enacted, That in all actions depending, or to be commenced in any court of record, if any plaintiff happen to die after an interlocutory judgment, and before a final judgment obtained therein, the said action shall not abate by reason thereof, if such action might be originally prosecuted or maintained by the executors or administrators of such plaintiff; and if the defendant die after such interlocutory

Where parties to actions die before final judgment.

judgment, and before final judgment therein obtained, the said action shall not abate, if such action might be originally prosecuted or maintained against the executors or administrators of such defendant; and the plaintiff, or if he be dead, after such interlocutory judgment, his executors or administrators shall and may have a scire facias against the defendant, if living, after such interlocutory judgment, or if he died after, then against his executors or administrators, to shew cause why damages in such actions should not be assessed and recovered by him or them; and if such defendant, his executors or administrators, shall appear at the return of such writ, and not shew or alledge any matter sufficient to arrest the final judgment, or being returned warned, or upon two writs of scire facias it be returned that the defendant his executors or administrators, had nothing whereby he or they might be summoned, and could not be found in the county, shall make default, that thereupon a writ of enquiry of damages shall be awarded, which being executed and returned judgment final shall be given for the said plaintiff his executors or administrators prosecuting such writ or writs of scire facias against such defendant his executors or administrators respectively.

Writs of idemp-
tate nom-
inals.

And be it further enacted, That the executors and administrators of every testator or intestate may have and maintain the writ of idemp-
tate nom-
inals in like manner as the same might be maintained by the testator or intestate if living, in case of the outlawry of any person having the like name as such testator or intestate had.

All execu-
tors or ad-
ministra-
tors con-
sidered as
one person
in actions.

And be it further enacted, That in actions against divers executors or administrators, all the executors or administrators shall be considered as one person representing the testator or intestate, and in case any of them shall be taken or summoned on any writ or process against them, such as do first appear shall answer the plaintiff, and if judgment shall pass for the plaintiff the judgment and execution thereon shall be awarded against such of them as have appeared, and all others named in the writ or process, of the goods of the testator or intestate in the same manner as if they had all appeared; *provided however* that the plaintiff in any such action may at his election sue and prosecute in the manner formerly used in like cases.

Fraud on
estate.

And be it further enacted, That every person who shall obtain or receive any goods or debts of the estate of any intestate, or a release or other discharge of any debt or duty which belonged to any intestate from any administrator of such intestate upon any fraud, whereby the creditors of such intestate, or any of them may be injured, or without a full and valuable consideration such person shall be chargeable as executor in his own wrong, to the value of such goods and debts so obtained or whereof he shall be so released or discharged, deducting nevertheless all just debts due to him from the intestate and all payments made by him as the same ought to be allowed to lawful executors or administrators in the course of administration.

Judgments
against
adminis-
trators.

And be it further enacted, That no lands or other real estate of any testator or intestate, shall be sold or in any wise affected by virtue of any judgment or execution against executors or administrators.

Acts by
adminis-
trators
before
notice of
will.

And be it further enacted, That all sales made bona fide and lawful acts done by administrators before notice of a will, shall remain valid and unimpeached by executors on any will afterwards appearing; *pro-
vided* that such executors shall have the same remedy against the administrators for the goods, chattels and credits remaining unadministered, as before this act.

XV. *And be it further enacted*, That just and equal distribution of what remaineth clear of the goods and personal estate of any person dying intestate, after all debts, funeral charges and just expences first allowed and deducted, shall be made amongst the wife and children or children's children, if any such there be, or otherwise to the next of kin to the intestate in equal degree or legally representing their stocks that is to say, one third part of the surplusage to the wife of the intestate, and all the residue by equal portions to and amongst the children of such persons dying intestate and such persons as legally represent such children, in case any of the said children be then dead, other than such child or children who shall have any estate by settlement or shall be advanced by the intestate in his life time by portion or portions equal to the share which shall by such distribution, be allotted to the other children to whom such distribution is to be made; and in case any child shall have any estate by settlement from the said intestate or shall be advanced by the said intestate in his life time, by portion not equal to the share which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate shall be distributed to such child or children as shall have any land by settlement from the intestate, or were advanced in the life time of the intestate as shall make the estate of all the said children to be equal, as near as can be estimated, and in case there be no children nor any legal representatives of them, then one moiety of the said estate shall be allotted to the wife of the said intestate, and the residue of the said estate shall be distributed equally to every of the next of kin of the intestate, who are in equal degree and those who represent them; but no representation shall be admitted among collaterals after brothers and sisters children. And in case there be no wife, then all the said estate shall be distributed equally to and amongst the children; and in case there be no child, then to the next of kin in equal degree of or unto the intestate, and their legal representatives as aforesaid, and in no other manner. *Provided however* that if after the death of a father any of his children shall die intestate, without wife or children in the life time of the mother, every brother and sister and the representatives of them shall have an equal share with her.

Distribu-
tion of
estate,
rule of.

And be it further enacted, That nothing in this act contained respecting the distribution of intestates' estates shall be construed to extend to the estates of femes covert that shall die intestate; but that their husbands may demand and have administration of their rights, credits and other personal estate, and recover and enjoy the same as fully as they might have done before the passing of this act.

Estates of
femes
covert.

And be it further enacted, That no distribution of the goods, chattels and credits of any intestate shall be made until the expiration of one year after granting administration thereof and where no time shall be limited by any last will or testament for the payment of any legacy therein bequeathed, the executors shall have the space of one year to discharge the same; *and further* that every person entitled to any legacy or bequest, or to any share on such distribution shall at the time of payment or delivery thereof, give bond in double the sum of such share or legacy with two sufficient sureties to the executors or administrators, conditioned, that if any debts owing by the testator or intestate shall afterwards be recovered or duly made to appear, and which there shall be no other assets to pay, and also in the case of a legacy, if no sufficient assets shall thereafter remain to pay any other legacies, which may be due, that then such person shall refund the legacy or share so paid or delivered, or such rateable part or proportion thereof with the

When dis-
tribution
to be made

other legatees or representatives of the deceased as may be necessary for the payment of the said debts, and the costs and charges incurred by reason thereof; and in case of a legacy the proportional part of such other legacies, if there be any.

Rights of
residuary
legatees
and others
entitled to
share in
estate.

And be it further enacted, That it shall be lawful for any person to whom any legacy of any sum of money or other personal goods or chattels or residuary part of any personal estate, hath been or shall be given by any last will or testament or who shall be entitled to any share on the distribution of the estate of any intestate his executors or administrators to recover the same when due, in an action of debt, detinue or account as the case may require in any court of record in this State, if there be more than sufficient assets in the hands of the executors or administrators to discharge the debts of the testator or intestate; and in the case of a legacy, if such assets be not sufficient to pay all the legacies that may be given, then an abatement shall be made in proportion to the legacies so given, and such person shall recover only a proportional part, and where such person shall be an infant at the time such legacy or share shall become due, such action may be brought by guardian or next friend as in other cases; *provided however,* that no such action shall be maintained against any executors or administrators until after a reasonable demand of such legacy or share, and an offer of such sureties as above mentioned be made, and if the same be refused then the person entitled to such legacy or share, shall file the bond with such sureties, the same being first approved of by the court, in the office of the clerk thereof, before obtaining any process against such executors or administrators, otherwise the said process shall abate; *and provided also* that no action shall be brought in consequence of this act by any infant by guardian or next friend until such guardian or next friend shall have executed and filed in the office of such clerk, a bond to the said infant, in such sum and with such sureties as the court shall approve, conditioned that such guardian or next friend shall duly account to the said infant when of age or to the executors or administrators of such infant, in case of his death, for all monies which may be recovered in such suit.

Where plea
of want of
assets
entered.

And be it further enacted, That the court in which any such action shall be brought upon the plea of want of assets to pay all the debts and legacies or either, may appoint auditors to examine the accounts of the executors or administrators which auditors after full hearing and examination thereof at such times and places as by them shall be appointed, notice whereof shall be given to the parties, shall report how much assets will remain in the hands of the executors or administrators after payment of all the debts, and what part thereof the plaintiff is entitled to recover, and the court shall thereupon give judgment and award execution for the same; but if the plaintiff shall discontinue his suit or become non suited or have judgment against him the defendants shall have judgment to recover their costs of suit against him, and if the plaintiff shall recover only part of his demand for want of further assets, and such assets shall afterwards come to the hands of the defendants, the plaintiff shall have a resumption against them and recover the residue of the monies due to him or his proportion of such assets, and the court is hereby empowered to correct and amend any mistakes or errors in such report or the accounts so reported; and on consideration of the same, and of the proceedings in such action to award the costs thereof or the costs of either party, to be paid by them or either of them or out of the estate of the testator or intestate according to justice and equity, and in case the executors or administrators shall have refused or neglected to

pay the plaintiffs demand or a proportional part thereof when due without reasonable cause, to award costs against them to be paid out of their own estate.

And be it further enacted, That in all cases where administration shall be granted with a will or testament annexed, the will of the deceased in such testament expressed shall be observed and performed, and that this act shall extend to administrators with such will annexed in the same manner as if they were executors named in such will. Administration with will annexed.

And be it further enacted, That in all cases where administration hath been or shall be granted to any person not the widow of, or not of kin to the intestate, and no person hath or shall within one year after granting the letters of administration appear to claim the personal estate of such intestate as next of kin, then, and in every such case the administrator or administrators shall pay the amount of the personal estate, after deducting the debts and funeral charges of the intestate, into the treasury of this State, for the benefit of those who may thereafter appear to be entitled to the same. Where no claimant for estate appears.

CHAP. 175.

AN ACT for taking a census in this State.

PASSED the 7th of April, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That the supervisor of the city of Hudson, the assessors and clerk thereof; the mayor, aldermen and commonalty, in common council convened of the cities of New York, Albany and Schenectady respectively, and the supervisors assessors and clerks of every town in this State, shall on or before the first Monday in June next appoint such and so many discreet and proper persons as they may deem necessary to take the census of the electors in the said city of Hudson, each of the said towns, and the several wards of the said cities of New York, Albany, and Schenectady respectively; and for that purpose, the Secretary of this State shall without delay cause blank returns to be printed in the forms of the schedules provided by the act entitled, "An act for taking a census in this State," passed the 3d of March, 1795; and shall on or before the first day of May next cause to be delivered to the clerk of the city and county of New York, seven copies of the said returns, according to the first of the said schedules, and to the clerk of the city and county of Albany four of such schedules, and to each of the treasurers of counties in this State, three times as many of the said blank returns, according to the second of the said schedules as there are cities and towns in their counties respectively, and also at the same time deliver to each of the persons aforesaid, to whom the said blank returns shall be so delivered, a like number of copies of this act: And it is hereby made the duty of the said treasurers respectively to deliver on or before the third day of May next to the clerks of each of the towns in their county, and to the clerk of the said cities of Hudson and Schenectady the said returns and copies of this act provided as aforesaid for such towns and cities. Who to appoint enumerators.

Blank returns.

And be it further enacted, That the persons so to be appointed as aforesaid, shall without delay take the number of all the electors residing in the said cities, towns or wards, for which they shall respectively be appointed, and enter the same in the returns to be delivered as afore- Duty of enumerators; how schedules filled out.

said, in manner following, that is to say, for the said city of Hudson, the wards of the said city of Schenectady, and the several towns in the State; in the first column, the name of the head of each family, in the second column the whole number of male inhabitants in the same family, if any who are above the age of twenty one years, and are possessed of freeholds within the State of the value of one hundred pounds over and above all debts charged thereon; in the third column, the whole number of male inhabitants in the same family, if any, who are above the age of twenty one years and are possessed of freeholds in the county of their residence of the value of twenty pounds; in the fourth column, the number of male inhabitants in the same family, if any not possessed of freeholds in the same county, and above the age of twenty one years, who rent tenements of the value of forty shillings; but no person shall be numbered in the said third column, who has been numbered in the said second column, nor any person numbered in the said fourth column, who has been numbered in either the said second or third columns: And for the said city of New York, the returns of said census, shall in respect to the four first columns, be taken in like manner as aforesaid, and in the fifth column shall be inserted the number of male inhabitants in the same family, if any, who were freemen of the city of New York on the fourteenth day of October 1775: And for the said city of Albany, the like proceedings shall be had, in respect to the four first columns, and in the fifth column shall be entered the number of male inhabitants in the same family, if any, who were freemen of the same city on the twentieth day of April 1777; and no person shall be numbered in the said fifth column who has been numbered in either of the other columns: And the returns so made out as aforesaid, shall be certified by the person taking the same to be true according to his best knowledge and belief, and subscribed and sworn to before any justice of the peace, who shall certify such attestation: And such person shall on or before the first day of December next, cause the returns by him made out as aforesaid, to be delivered in manner following, that is to say, for the said cities of Hudson, Schenectady, Albany, and New York, to the clerks of the same cities respectively, and for the said towns, to the respective clerks thereof; which clerks of the said cities of Hudson, Schenectady, and Albany, and the said towns shall cause such returns without delay to be delivered to the treasurers of the counties respectively in which such cities or towns are situated, who shall on or before the first day of February next, inclose such returns under seal, and by some one member of the legislature for the time being, or other safe person transmit the same to the secretary of this State; and the clerk of the said city of New York, shall within the like period inclose and cause to be delivered to the said secretary as aforesaid the said returns for said city.

Transmis-
sal of
returns to
secretary
of State.

Oaths;
false infor-
mation;
penalty for
neglect by
enumeration-
tor.

And be it further enacted, That the persons so appointed to take the said census shall be and are hereby respectively authorized to administer an oath to and examine any person touching the premises, to enable them to execute the duties hereby enjoined. And if any person shall, whether upon oath or otherwise, give to any such person appointed to take the said census, false information, either as to number or qualification of any persons as electors, such person so offending shall forfeit the sum of twenty five dollars, to be recovered with costs of suit, before any justice of the peace, to the use and benefit of any person, who shall prosecute therefor. And if any of the said persons whose duty it shall be to appoint proper persons to take the said census, or any of the persons so appointed, or any county treasurer, or any other person on whom

any duty is imposed by this act, shall refuse or neglect to perform the duty enjoined upon them respectively, every such person so offending, shall forfeit and pay to the people of this State the sum of one hundred and fifty dollars, to be recovered by the attorney general, or any district attorney general, with costs of suit, by action of debt or information in any court of record having cognizance thereof.

And be it further enacted, That the accounts of the persons taking the said census shall be audited by the supervisors of the county, and thereupon be assessed, collected and paid as part of the contingent expenses of the same county; and if it shall be necessary in any case, to transmit to the secretary of this State, the said returns by special messenger, such messenger shall be allowed at and after the rate of eighteen cents per mile for his travel going only to the secretary, to be paid by the treasurer of the State upon the certificate of the secretary thereof.

Payment of expenses of taking census.

And be it further enacted, That the secretary of this State shall without delay after receiving the said returns, make and report to the legislature a general account of the electors in the State in the manner prescribed by the eighth section of the said recited act.

Transmissal of returns to legislature.

CHAP. 176.

AN ACT for the partition of lands.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That where any lands, tenements, or hereditaments shall be held in joint-tenancy, tenancy in common or in coparcenary it shall be lawful for any one or more of the parties interested therein to present a petition to the supreme court describing such lands, tenements or hereditaments, and setting forth the rights and titles of all the said parties therein and praying that the same may be divided by commissioners to be appointed by the said court in pursuance of this act according to their respective rights therein, a copy of which petition shall be served forty days previous to the term in which the same shall be presented on all the parties concerned in such lands, tenements or hereditaments, who shall not join in the said petition and shall reside in this State, or on the guardians of such of the said parties as are minors, together with a notice subscribed by the petitioners and directed to each of the said parties or their guardians, as aforesaid, that an application will be made to the said court on the first day of (the term therein mentioned) or as soon thereafter as counsel can be heard; for the appointment of such commissioners, and in case any of the said parties to be notified as aforesaid shall reside out of this State, or cannot be found therein, and the same be made to appear by affidavit to the court on presenting such petition as aforesaid, a copy of such petition and of such notice shall be previously published for the space of three months in one of the public news papers printed in each of the cities of New York and Albany which publication shall be deemed sufficient notice to such parties. *Provided however* that in all cases the service of a copy of such petition and notice on any of the said parties, not resident in this State, shall as to such parties be also deemed a sufficient service of the same without publication thereof as aforesaid —

Petition to court for partition of lands; service on parties.

Proceed-
ings, pleas
and trial.

And be it further enacted, That on presenting the said petition, and proof being made by affidavit to the satisfaction of the said court that copies of the said petition and notice have been duly served or published as aforesaid, the said court shall by rule order that the parties so notified appear and answer the said petition within the usual time allowed for pleading in the said court, and such parties or any of them within such time or within such further time as may be allowed for that purpose by the said court may appear and answer or plead to the said petition as to a declaration and such further pleadings may thereupon be had between the parties respectively according to the rules and practice of the said court as in other actions or suits depending therein until an issue or issues in law or in fact be joined between the said parties respectively or some of them, or any of the parties who shall answer the said petition may plead thereto non tenent in simul and give any special matter in evidence under the said plea which might be otherwise pleaded giving notice with the said plea of the several matters so intended to be given in evidence, and all such issues shall be tried and the like proceedings for the trial thereof shall be had as in other actions in the said court, and the said court shall have power to award new trials after the trial of such issues of fact as in other cases, and after the final determination of all such issues the said court shall ascertain and determine the respective rights of the said parties in such lands, tenements, or hereditaments and give judgment that partition thereof be made between them according thereto, or between such of them as shall have any right therein, and if the said parties so notified as aforesaid or any of them shall not appear and answer or plead to the said petition within the time allowed for pleading as aforesaid, or if the matter of the said petition be confessed by all the said parties or any of them, the said court shall give the like judgment by default or confession against such parties, and in every case after determining the rights of all the said parties and judgment shall be given thereon, the said court shall by rule or order appoint three reputable freeholders of the city or county in which the said lands, tenements or hereditaments or the greatest part in value thereof shall be situated, commissioners to make the said partition, quality and quantity relatively considered, according to the respective rights and interests of the parties to be adjudged as aforesaid —

Commis-
sioners to
make par-
tition.

And be it further enacted, That the commissioners to be appointed as aforesaid shall before they proceed to make such partition be severally sworn or affirmed (as the case may be), before one of the judges of the said court or a commissioner appointed to take affidavits to be read in the said court, honestly and impartially to execute the trusts reposed in them as commissioners for making partition of the lands, tenements and hereditaments as directed by the said court, which oath or affirmation shall be taken and subscribed by the said commissioners, and filed in the office of one of the clerks of the said court, at or before the time of making the return by them of such partition as herein after mentioned, and the said commissioners shall thereupon proceed to make the said partition among the parties of the said lands, tenements and hereditaments according to their respective rights therein, and the said partition shall be made by the said commissioners or any two of them, and a return thereof shall be made by them in writing under their hands and seals to the said court, and particularly describing the part or share allotted to each owner, and the said return shall be acknowledged by the said commissioners or any two of them before one of the judges of the said court or before one of the officers authorized to take the proof and acknowledgment of deeds and conveyances by law, and the said

court upon good cause shown by any of the said parties against the justice or regularity of such partition and return may set aside the same and appoint commissioners anew to make such partition who shall in all things proceed as such commissioners are above directed to proceed, but if no such cause be shown the said court shall confirm the said partition and return and give judgment that the same be firm and effectual forever, between all the parties thereto, and such judgment shall be binding and conclusive on all such parties and their legal representatives. *Provided always* that where any houses and lots not exceeding fifty acres are so circumstanced that a division thereof cannot be made without great prejudice to the owners of the same, and the commissioners appointed to make partition of the same, shall so report to the court, if it shall then appear to the court by satisfactory proof that such lot or lots do not contain more than fifty acres and cannot be divided among the owners without great and manifest prejudice to them, and also that the same do not (except in the cities of New York, Albany and Hudson, and the town of Brooklyn in Kings county) exceed in value the sum of seven thousand five hundred dollars, the said court shall thereupon order the said commissioners to sell such houses and lots at public vendue to the highest bidder — giving at least thirty days notice of the time and place of such sale, and the said commissioners after such sale shall report the same to the said court, and if the said court shall approve of such sale, they shall give judgment that the same be valid and effectual in law, and therein or by a rule or order of the said court direct the said commissioners to execute good and sufficient conveyances in the law to the purchaser or purchasers for the premises so sold which shall operate as an effectual bar both in law and equity against the said parties and all persons claiming under them — *And provided also* that the said limitation as to the value of the said houses and lots which may so be sold, shall not apply to any lands, tenements or hereditaments, or to any houses or lots situated in the said cities of New York, Albany or Hudson or the said town of Brooklyn —

Where no
division
can be
made.

And be it further enacted, That the costs and charges attending any of the proceedings directed by this act, shall first be paid by the petitioners pursuing the same, and the said court on every final judgment to be rendered as aforesaid either for partition of such lands, tenements or hereditaments or upon a sale thereof, or for the partition of part, and upon a sale of the residue thereof, shall also adjudge each of the parties concerned therein other than the said petitioners to pay to the said petitioners a proportion of the said costs, according to their respective rights therein, which costs shall be taxed as in other cases for the like or similar services, and may be levied by execution against the person, goods, chattels, lands and tenements of the respective parties who shall be adjudged to pay the same as in other cases, where costs are to be recovered, and in case of any such sale the court may order the same to be paid or retained out of the monies arising from such sale, and due to the parties who ought to pay the same —

Costs of
proceed-
ings.

And be it further enacted, That the monies arising from every such sale shall be ordered by the said court, to be paid by the said commissioners to the said parties, their guardians or legal representatives in proportion to their respective rights in the lands tenements or hereditaments so sold, deducting from their respective shares the costs and charges which may be ordered to be retained out of the same as aforesaid, and if any of the said parties shall be absent from this State, without such legal representative, the proportion of the said monies due to every such party shall be put out at interest on sufficient security of real prop-

Distribu-
tion of pro-
ceeds of
sale.

erty by order and under the direction and controul of the said court for the benefit of such party—

Guardians
of minors.

And be it further enacted, That it shall be lawful for the said court, for any of the purposes intended by this act and before or after the commencement of any proceeding by virtue thereof, to appoint guardians for such minors, whether such minors shall reside in or out of this State, and the said court on appointing any guardian as aforesaid shall for the benefit of such minors take sufficient security of every such guardian by bond to the people of this State, conditioned for the faithful discharge of the trust committed to such guardian, and to render a just and true account of such guardianship in all courts and places, when thereunto required, which bond or bonds shall be filed in the clerks office of the said court; and the guardians of all minors so to be appointed shall be and hereby are respectively authorized and empowered in behalf of the respective minors, whose guardians they shall be, to do and perform every act respecting the proceedings for the partition of any lands, tenements or hereditaments, under this act, or any matter or thing relating thereto, which shall be binding on such minors, and be deemed as valid to every purpose, as if the same had been done by such minors after they should have arrived to full age—

Allow-
ances to
commis-
sioners.

And be it further enacted, That the commissioners so to be appointed shall be allowed such sum for their services and expences as the said court shall direct, and which shall be paid by the said petitioners, and shall be allowed as part of the costs to be taxed as aforesaid—

Who may
bring
action in
partition.

And be it further enacted That all joint tenants and tenants in common who now hold or hereafter shall hold jointly or in common for years or for life or lives, and all joint tenants and tenants in common, where one or more of them have or shall have estates for years or for life or lives with the other or others of them, who have or shall have estates of inheritance or in fee, and each of them, shall in every such case have the like remedy for the partition of any lands, tenements or hereditaments so possessed or held by them in joint tenancy or tenancy in common and in all respects subject to the like proceedings and regulations as are provided by this act—

Jurisdic-
tion of cer-
tain courts.

IX. *And be it further enacted* That the court of common pleas, called the mayors court in the city of New York, and the respective mayors courts of the cities of Albany and Hudson and the courts of common pleas in the several counties of this State shall in respect to lands, tenements and hereditaments situate in their respective cities and counties in every of the cases, mentioned in this act have the like power to make partition of such lands, tenements and hereditaments, and in the same manner and form, and subject to the like proceedings and regulations as are herein before prescribed with respect so the supreme court and to try and determine any issue or issues to be joined as aforesaid in the same manner as other issues may be tried and determined in such courts respectively, and all proceedings and judgments so to be had in any of the said courts shall be of the like force and effect as if the same were had in the supreme court; *provided however* that it shall be lawful for any of the parties in any proceeding to be had in any of the said courts by virtue of this act at any time before judgment be thereupon given that partition of the lands, tenements or hereditaments in question be made or before a juror on any such issue be sworn to remove into the supreme court all such proceedings by writ of certiorari to be allowed by one of the judges of the said supreme court, and upon the removal of the same into the supreme court the like proceedings shall be there

had as if the petition had been first presented to the said supreme court —

And be it further enacted, That every partition of lands, tenements or hereditaments previously held in joint tenancy or coparcenary and heretofore made by commissioners appointed by the mayors court of the city of New York or any court of common pleas according to the act entitled "An act for the partition of lands" and the several acts amending the same, shall be deemed and taken to be as valid and effectual as if such lands, tenements or hereditaments had been so held in tenancy in common —

Certain partitions confirmed.

And be it further enacted, That on all final judgments to be given in any of the said courts upon any such partition being made, or upon a sale of the whole or part of the premises mentioned in any petition presented by virtue of this act, or upon any such sale of part and partition of the residue thereof it shall be lawful for any of the parties to such judgment to bring a writ or writs of error thereon within the same time and under the like restrictions and regulations as in other cases.

Writs of error.

CHAP. 177.

AN ACT relative to the public salt works.

PASSED the 7th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That Shelden Logan be and he is hereby authorised to do and perform all the duties which William Stephens late superintendant of the salt works deceased, was required to do and perform, until a superintendant of the salt works shall be appointed by the governor by and with the advice and consent of the council of appointment, and the said Shelden Logan shall be allowed for his services the like compensation as is allowed to the superintendant of the salt works.

Temporary superintendant appointed.

And be it further enacted That the sixth section of the act entitled "An act concerning the salt springs in the county of Onondaga" passed the 1st of April 1797, so far as relates to the keeping in store the quantity of salt therein mentioned for the supply of the citizens of this State be and the same is hereby repealed.

Part of act repealed.

And be it further enacted That the duty of one cent per bushel shall not be demanded on any salt manufactured at the said salt springs which the superintendant shall refuse to receive into the block house or public store at the salt springs after being brought to such store and there inspected as directed by the act in that behalf provided.

Duty remitted on certain salt.

CHAP. 178.

AN ACT to enable certain persons therein named to purchase and hold real estates within this State.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful for John Walsh, Moses Kerivan, Lawrence Kerivan, Thomas Hays, Samuel Slee, George

Persons named may hold lands in this State.

Collenburgh, John Humphries, John Heslop, Gawn Makimson, William Killgore, Hugh Makimson, Abraham Dunlap, William Conning, Thomas Blakely Little, James Gibbons, John Shaw, John Gaynor, Thomas McClelland, Alexander McClelland, John Brown, John Richardson, Matthew Garvey, Richard O'Reilly, Thomas Campbell, William McDonnell, Alexander Denniston, Anthony Thompson, James Hamilton, Robert Swan, John McKinley, James Given, Robert Wallace, Charles Moon, Alexander Craig Miller, William Wallace, Charles Smyth, George Tomb, William Cunningham, Robert Layes, Samuel Moore, Owen Masterson, David Martin, John Martin, George Campbell, William Elliot, Michael Bird, John Abercrombie, John Wilson, Hugh Culbert, Francis Hume, Thomas Cassady, Hugh Miller, Daniel Campbell, John Tackie, Jacob Hartung, Christian Schepperman, Brabazen Noble, John Patterson, Robert Gardiner, John Hook, Joseph Chadwick, William Clark, William Bethell, John Wade, Cornelius Hessey, Hugh Henning, David Woods, Daniel Forbes, Henry Donoughe, John Friksey, Daniel Sinclair, Daniel Stewart, Duncan Stewart, John Stewart, John Banks, William Stevenson, John Dawson, John Moody, George Wyley, James Renchman, James Alexander, Walter Wright, Adolphus Loss, Daniel Ernst Moerschel, Michael Bourdine, David Elliot, Godlip Brown, George Mabin, James Mabin, William Kie, Henry Miller, Charles R. Smith, James Waer, James Rogers, Jeremiah O'Callaghan, John Holmes, Thomas Jones, Adam Kedzie, George Kedzie, James Kedzie, Mathew Russel, William Moscrip, Robert Moscrip, James Russel, David Ballantine, William Storie, James Storie, Robert Scott, James Scott, John Thompson, James Hastings, Stephen Russel, Alexander Dean, John Hastings, John Smith, Christian Isanbergh, James Mitchell, John Knox, William Gunning, William Burnes, Moses Steel, James W. Graham, John Graham, Daniel Gailey, William Gailey, Samuel Martin, Augustine Lanuire, William Winterton, James Kenney George McCann, Thomas Geraghtey, Robert Ker, John Kelly, John McGill, Alexander McClelland, William McGeoch, James Shaw, Joseph Shirkell, Joseph Shirkell junior, and Jane his wife, John Shirkell, Thomas Shirkell, James Bevan and Maria Charlotte his wife, and Nancy the wife of Samuel Lilly severally to purchase lands tenements and hereditaments within this State and respectively to have and to hold the same and to their respective heirs and assigns forever as fully to all intents and purposes as any natural born citizen may or can do any law usage or custom to the contrary notwithstanding; but it is declared that no alien freeholders are entitled to the rights of citizenship.

Lands
heretofore
purchased.

And be it further enacted, That no lands, tenements or hereditaments in this State heretofore purchased by any of the persons herein before named shall escheat to the people of this State by reason or on account of such persons then being an alien but all such lands, tenements and hereditaments shall be understood as having vested in such purchaser or purchasers any law to the contrary notwithstanding; *provided always* that no alienation of any lands purchased or to be purchased or held by virtue of this act shall be good and effectual in the law other than to a citizen of the United States.

CHAP. 179.

AN ACT for the assessment and collection of taxes.

PASSED the 8th of April, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That the taxes hereafter to be levied in this State shall be assessed, levied and paid upon the valuation of real and personal estates in the manner hereinafter mentioned; and that the valuation of houses and lands within this State lately made under the authority of the United States as the same is now completed shall be deemed to be the value of all such houses and lands for the purposes declared in this act. *Provided,* that the assessors of each town and ward in this State shall from time to time make such alterations in the said valuation as shall appear to them to be just and necessary to equalize the taxes upon real estates within their respective towns and wards; but the aggregate or gross amount of the said valuation under the authority of the United States, as the same is now completed, shall not be lessened by any such alteration; and the said assessors shall set down in one column of their assessment roll, opposite to the name of the possessor thereof, the just and true value of all houses and lands in such town or ward liable by law to be taxed, and if there be no possessor then the name of the reputed owner shall be set down as the possessor thereof; and if the assessors shall discover any houses or lands not contained in the said roll they shall ascertain and set down therein the true value thereof according to the principles prescribed by the act of Congress for making such valuations and shall add the same to the said aggregate amount.

Manner
levying
taxes; v
uations
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And be it further enacted, That the assessors of each town or ward may distribute their towns or wards by mutual agreement into such number of divisions to be called assessment districts as they may deem convenient, not exceeding the number of assessors in such town or ward, and shall in every year between the first days of May and June ascertain according to the best evidence in their power, and set down in the said assessment roll the value of the personal estate of every person residing in such town or ward over and above all debts and demands against such person, and in case any person not satisfied with such estimate shall make affidavit before such assessors or either of them, who are hereby authorised to administer such oath, that the value of his or her personal estate does not exceed a certain sum specifying the same, then and in every such case the assessors shall value such personal estate at the sum specified in such affidavit and no more, and every person liable to be taxed for any personal estate as aforesaid shall be taxed for the same in the town or ward where such person shall reside at the time of making the said assessment.

Assess-
ment di-
stricts; p
sonal
estate.

And be it further enacted, That whenever any lands shall be increased in value by the erection of dwelling houses or other buildings not included in the said valuation; and whenever any dwelling house or other building shall be destroyed or damaged by fire or other accident, the assessor within whose assessment district the same may be, shall enquire into and ascertain the amount of such diminution or increase of value and vary the assessment roll accordingly.

Alterati-
in value
real esta

And be it further enacted, That the said assessors shall set down in their assessment roll opposite the name of each person, in one column

Non-resi-
dents; a
ssesmen

rolls; service of assessments.

where such person does not reside in their town or ward the word "non resident," and shall specifically designate the real estate of such non resident so assessed, to the end that one non resident may not be assessed for the lands of another; in another column the value of the real estate, and in a third column the value of the personal property owned or possessed by him or her, leaving room sufficient opposite thereto to insert the sum to be paid as a tax thereon, and shall complete such assessment roll of real and personal estate and deliver the same signed by them or the major part of them, on or before the first Tuesday of July in every year to the supervisor of their respective towns, except in the city and county of New York where the same shall be delivered to the clerk of the said city, who shall deliver the same to the board of supervisors at their next meeting, leaving a copy thereof with one of the assessors, and thereupon cause notices in writing to be fixed up at two or more public places in their ward or town setting forth that they have completed such assessment, and that a copy thereof is left with one of the assessors, naming him, and the place of his residence, where the same may be seen and examined by any of the inhabitants during ten days, and that at the expiration of the said ten days they will meet at a place in the said notice to be specified to review their said assessment, on the application of any person conceiving himself aggrieved; and it shall be the duty of the said assessors during the said ten days to submit their assessment rolls to the inspection of any person who shall apply for that purpose, and at the said time and place the said assessors shall meet, and on application of any person conceiving himself aggrieved shall review the said assessment, and may alter the same on sufficient cause being shown to the satisfaction of the said assessors or a majority of them.

Meetings of supervisors; tax lists; warrants to collectors.

And be it further enacted, That the supervisors in each county shall annually on the first Tuesday of October, meet together at the places established by law for their meeting, and shall estimate and set down or cause to be estimated and set down in the column left for that purpose opposite to the several sums set down as the value of the real and personal estates in the assessment rolls, the respective sums in dollars and cents, (rejecting the fractions of a cent in all cases where they occur,) to be paid as a tax thereon, and shall also add up and set down the aggregate value of the real and of the personal estates, and shall then cause two fair copies of each assessment roll to be made, and subscribe their names or the names of a majority of them to the same, and shall transmit one of them to the comptroller of this State, stating thereon the sums directed to be levied for the support of the poor of such town, for the contingent charges of the county and for the State tax, and the date of their warrant to the collectors, and shall cause the other copy to be delivered to the collector of such town or ward with a warrant annexed to the same under their hands and seals or the hands and seals of a majority of them, directed to and requiring him to collect from the several persons named in the assessment roll, the several sums mentioned in the last column thereof or in the last column of each page thereof, if it consists of more than one page, opposite to their respective names, and authorising him in case any of them shall refuse or neglect to pay such sum or sums to levy the same by distress and sale of his or her goods and chattels together with the costs and charges of such distress and sale, and directing him to pay such part of the money so collected as shall have been directed to be raised for the support of the poor to the overseers of the poor of such town or ward, and the residue of the money to the treasurer of the county on or before the first day of

February then next, retaining in his hands out of the same for his services five cents upon every dollar he shall collect or levy and pay to the overseers of the poor and to the county treasurer, and in case there shall be more than one collector in any such town or ward, then the said supervisors shall direct and cause such warrant and assessment roll to be delivered to such one of them as they shall judge most suitable and proper, and as soon as they shall have sent or delivered any assessment roll with such warrant as aforesaid to any collector they shall transmit an account thereof to the treasurer of the county containing the name of the collector, the amount of the money he is to collect, distinguishing the sums that are to be collected for the support of the poor, for the contingent charges of the county, and for the State tax and the time when he is directed to pay the same to the county treasurer; and the county treasurer upon receiving such account shall charge such collector with the amount of the money he is directed to collect, and the said supervisors shall proceed in the same manner with respect to the assessment rolls of every town and ward in their county until they shall have completed all such as shall have been delivered to them.

And be it further enacted, That if any assessor shall refuse or without being prevented by sickness neglect to perform the duties required of him by this act, he shall forfeit and pay to the people of this State the sum of fifty dollars, to be recovered by action of debt or by information in any court of record with costs; and in case of such neglect or refusal, or of any assessor being prevented from performing the said duties by sickness, the other assessors of each town or ward shall perform the same, and shall certify to the supervisors with their assessment roll, the names of such delinquent assessors, distinguishing which of them, if any, were prevented from performing the said duties by sickness. Neglect by assessors.

And be it further enacted, That the clerks of the respective cities of New York, Albany, Hudson and Schenectady and the town clerks of each town in this State, shall yearly between the first day of May and the first Tuesday of October, certify and deliver to the supervisor of their respective towns (who shall deliver the same to the board of supervisors at their next meeting) the names of all the assessors and collectors in their respective cities and towns, and the supervisors shall at every of their meetings certify to the comptroller of this State, the names and places of abode of the respective town clerks, and the names additions and places of abode of all the assessors in their respective counties who shall have neglected, without having been prevented by sickness, to perform the duties required of them by this act, and the comptroller shall thereupon give notice thereof to the attorney general and direct that such delinquent assessors be prosecuted for the penalties by them respectively incurred in pursuance of this act. Duty of clerks of cities and towns.

And be it further enacted, That any one or more of the assessors in any town or ward in case of the absence or default of the other assessors shall and may perform all the duties required of such assessors respectively by virtue of this act. Absence of assessor.

And be it further enacted, That the chamberlain of the city of New York shall be considered as the treasurer of the county of New York; and the city of Hudson shall be considered as a town in the county of Columbia, for all the purposes contemplated by this act. New York city; Hudson.

And be it further enacted, That every collector upon receiving such assessment roll and warrant shall proceed to collect the taxes therein mentioned and shall pay the amount thereof, deducting five cents upon every dollar he shall have collected, for his fees for collecting the same to the overseers of the poor and to the county treasurer at the Collection of tax.

time for that purpose mentioned in the said warrant, and in case any person shall refuse or neglect to pay the sum or sums at which his or her estate shall be taxed as aforesaid, such collector is hereby authorised and required to levy the same by distress and sale of the goods and chattels of the person who ought to pay the same, or of any goods or chattels in his or her possession wheresoever the same may be found within the district of such collector; and when any such distress shall be made of any goods or chattels in the possession of the person charged with such tax, no claim of any other person to the same by any right or title whatsoever shall be available; and in all cases of distress, if the goods and chattels distrained shall be sold for more than the amount of the tax with the charges of the distress and sale, the overplus shall be returned to the person in whose possession the same goods and chattels were when the distress was made.

Who liable
to pay tax
on real
estate.

And be it further enacted, That the person in possession of any real estate at the time any tax is to be collected, shall be liable to pay the tax imposed thereon; and in case any other person by agreement or otherwise ought to pay such tax or any part or proportion thereof, the person who shall pay the same shall and may recover the amount from the person who ought to have paid the same; and all taxes upon any real estate shall be a lien thereon, and shall be preferred in payment to all other charges, and all taxes upon any personal estate shall in case of death or bankruptcy of the person taxed, be preferred in payment to all other demands.

Settlement
of accounts
of collectors.

And be it further enacted, That every collector shall within one week after the expiration of the time mentioned in his warrant for paying the amount of the tax to the county treasurer, settle his account of the same tax with the county treasurer; and in case any of the taxes mentioned in the assessment roll annexed to his warrant, or any part of any of them shall remain unpaid, and he shall not have been able to levy the same, he shall deliver to the county treasurer an account of the names of the several persons charged with the same tax, and the sums remaining due thereon from each of them respectively; and if such collector shall make oath before the county treasurer, (which oath the county treasurer is hereby authorised to administer,) that the sums mentioned in such account, remain due and unpaid and that he has not upon diligent enquiry been able to discover any goods or chattels belonging to, or in the possession of either of the persons charged with or liable to pay the said respective sums, whereon he could levy the same, then and in every such case the county treasurer shall credit the account of such collector with the amount thereof and shall within thirty days thereafter transmit to the comptroller of this State the said account and affidavit of such collector, which affidavit shall be written at the bottom or upon the back of the same account, and be signed by such collector.

Neglect by
collector;
writ to
sheriff.

XIII. *And be it further enacted,* That if any collector shall refuse or neglect to pay to the county treasurer the amount of the taxes mentioned in any such assessment roll to be delivered to him as aforesaid, or to account for the same in manner aforesaid, within the time limited as aforesaid then the county treasurer shall within twenty days thereafter, issue a warrant under his hand and seal, directed to the sheriff of the county, thereby commanding him to cause the same, or if any part thereof is paid or accounted for in manner aforesaid, then so much thereof as shall remain unpaid and not accounted for, to be made and levied of the goods and chattels, lands and tenements of such collector, and to return the money to him the said county treasurer within forty days after the date thereof, together with the said warrant, and shall

immediately deliver the same warrant to the sheriff of the county, and every sheriff to whom any such warrants shall be directed, shall immediately cause the same to be executed and shall make return thereof to the county treasurer within the time therein specified, and pay to him the money levied by virtue thereof, deducting for his fees five cents upon every dollar of the sum levied and no more; and if the whole sum is not levied he shall endorse on the warrant the amount so levied, exclusive of his fees, and that such collector has not any more lands or tenements, goods or chattels in his county whereon he could cause the residue of the money therein mentioned to be made or levied; and in case he cannot find any goods or chattels, land or tenements of such collector whereof he can cause any part of the sum mentioned in such warrant to be made or levied, he shall make return thereof accordingly, and if no part of the money mentioned in such warrant, or only a part of it shall be levied, the county treasurer shall upon the return of the warrant to him, transmit a copy thereof, with a copy of the sheriff's return thereon endorsed, to the comptroller of this State.

And be it further enacted, That if any sheriff shall neglect to return any such warrant, or to pay the money levied thereon within the times limited for the return thereof as aforesaid, or shall make any other return than such as is above mentioned, he shall be liable to pay to the people of this State, to be recovered with costs of suit, in an action for so much money received to their use, the whole sum directed to be levied by such warrant; and the county treasurer shall in every such case certify to the comptroller that he has issued such warrant, mentioning against whom, and for what sum, and that the sheriff has neglected to return the same, or to pay the money levied thereon; and the comptroller shall give notice thereof to the attorney general in order that such sheriff may be prosecuted for the amount due on such warrant, which upon recovery shall be paid to the treasurer of this State for the use of this State; and if any county treasurer shall neglect to issue such warrant as aforesaid against any delinquent collector in his county, or to transmit such account and certificate as aforesaid such county treasurer shall be answerable in his account with the comptroller for the whole amount of the deficiency of such collector.

And be it further enacted, That every county treasurer shall apply the first monies which shall come to his hand to the payment of the county charges certified to him by the supervisors as aforesaid, and shall pay the residue of the monies received by him into the treasury of this State on or before the first day of March in every year, retaining in his hands one cent upon every dollar received by him, for his services; and it shall be lawful for any county treasurer to pay the money received by him into the Bank of New York or into the Bank of Albany, to the credit of the treasurer of this State, such county treasurer immediately transmitting the cashiers receipts for the same to the comptroller, who shall certify the same to the State treasurer and charge him with the amount.

And be it further enacted, That the comptroller shall in the month of March in every year, from the accounts and vouchers in his office state the account of the county treasurer of each county in respect to the said taxes, charging him with the amount of the State taxes in his county, and crediting him with the payments made by him to the treasurer of this State or into the Bank of New York or into the Bank of Albany to the credit of the treasurer of this State, and with the amount of his fees and the collectors fees thereon, and with all such sums as shall appear by the accounts, copies of warrants and returns, transmitted to him as aforesaid, not to

Neglect by
sheriff.

Applica-
tion of
monies by
treasurer.

Duty of
comp-
troller;
collection
of balances
due from
counties.

have been collected or received, and shall transmit a copy thereof to him; and if any ballance shall appear by any such account to be due from any county treasurer to the State, and such county treasurer does not pay such balance to the treasurer of this State or account for the same within thirty days thereafter, the comptroller shall deliver another copy of such account to the attorney general to be prosecuted against such county treasurer, and it shall be sufficient in the declaration in any such suit to set forth that the defendant on the day such account was stated as aforesaid, and at a certain place was indebted to the people of the State of New York in the sum therein stated, as the balance for so much money before that time received by him to their use, and that he in consideration thereof promised to pay the same, and to give the special matter in evidence and the said comptroller may also at his discretion direct the supervisors of the county to which such county treasurer shall belong, to commence and prosecute one or more suits against such county treasurer and his sureties or either of them or their representatives, on the bond given by them to the said supervisors for the faithful execution of the office of such county treasurer; and if any sum shall be recovered in any such suit, the defendant shall be liable to pay the costs of such suit: *Provided always*, that if the defendant shall at any time before judgment obtained in any such suit, pay the said balance into the treasury of this State, or account for the same to the comptroller and pay the costs of suit, it shall be lawful for the comptroller thereupon to direct such suit to be discontinued,

Reassessment of taxes on personal estate.

XVII. *And be it further enacted*, That the comptroller shall on or before the third Tuesday in July in every year hereafter from the accounts and vouchers in his office transmit to the clerk of the supervisors in each county an account of the amount of the taxes on personal estate in the several towns or wards of such county in the preceding year, not paid or accounted for by the collectors of any town or ward in such county nor levied as aforesaid of the lands and tenements, goods and chattels of such collector, and the supervisors shall add a just proportion of the sums so remaining unpaid to the tax of every person named in the next assessment roll of such town or ward (or where any such persons are not named in such assessment roll, shall justly apportion the sums due from them to and amongst all the persons in such town or ward, named on the said assessment roll) and if any of the taxes of the preceding year charged on real estate shall remain unpaid, the comptroller shall on or before the day above mentioned, cause notice thereof to be given in the newspaper printed by the printer to this State, and in two of the news papers printed in the city of New York, distinguishing the names of the several persons whose taxes are unpaid, the towns in which the real estates lie, and the sums due from each person, and thereby requiring them within six months from the day above mentioned to pay the same to the treasurer of this State (who shall on the warrant of the comptroller pay the expence of transmitting and publishing such notices out of any money in the treasury,) and all such sums as shall be unpaid after the time limited by such notice, shall thereafter be subject to a yearly interest at the rate of fourteen per cent, until the same shall be actually paid to the treasurer of this State, or the lands on which the same are a lien be sold as is herein after mentioned.

Taxes on real estate to be liens; sales of land for taxes.

And be it further enacted, That any tax to be laid in pursuance of this act upon real estate and the interest as aforesaid which may accrue thereon, shall be a lien upon the same real estate until the same tax and interest shall be paid or recovered, notwithstanding the same may have been divided or aliened in the whole or in part, and such lien shall be

considered as a mortgage; and whenever such tax and the interest aforesaid accruing thereon, shall remain unpaid for two years from the time limited in such notice as aforesaid, the comptroller shall cause so much of the lands charged with the said tax and interest to be sold at public vendue at the city hall of the city of Albany to the highest bidder, as shall be necessary to pay the same together with the charges of such sale, giving one years previous notice of such sale in the news paper printed by the printer to this State and in two of the public news papers printed in the city of New York, and the comptroller shall on every such sale give to the purchaser a certificate thereof, and if any person claiming title to the lands described in such certificate shall not within two years from the date thereof, pay to the comptroller for the use of the purchaser his heirs or assigns, the amount of the taxes, interest and charges paid by him on such sale together with the interest thereof at the rate of twelve per cent per annum from the date of the said certificate, that the comptroller shall at the expiration of the said two years, execute to the purchaser his heirs or assigns in the name of the people of this State a release for the lands so sold; *provided always*, that no procedure for sale shall take place until the arrears of taxes due from any person in any county within this State, together with the interest accumulated thereon shall exceed the sum of fifty dollars.

And be it further enacted, That in any action or information for recovery of any penalty or forfeiture by virtue of this act, it shall be sufficient in the declaration to set forth that the defendant at a certain time and place became indebted to the people of the State of New York in the sum to be recovered, specifying the same as a forfeiture incurred for refusing or neglecting to perform the duty required of him by virtue of an act entitled "An act for the assessment and collection of taxes" to be paid to the people of the State of New York when he should be thereunto required, and to give the special matter in evidence; and the amount of all such penalties, when recovered, shall be paid into the treasury of this State, for the use of this State. Actions for forfeitures

And be it further enacted, That all the provisions herein before made, relative to taxes on real estates remaining unpaid, shall apply to such taxes charged on real estates, as shall appear by the returns of the respective collectors made in the present year, to be in arrear. Taxes of year 1801.

And be it further enacted, That whenever the arrearages of taxes in any county have or shall in any year, exceed the amount of the State tax, the treasurer of this State shall out of the first monies that may be received on such arrearages, upon the warrant of the comptroller, pay to the treasurer of the said county the sum that may be due out of such arrearages on the tax directed to be levied for county charges. Arrearages

And be it further enacted, That the comptroller shall from time to time give to any person requiring the same, a certificate of the amount of any tax unpaid, whether charged upon real or personal estate; and it shall be lawful for the treasurer to receive and give a receipt for the same tax upon such certificate, which shall be carried to the comptroller who shall countersign the same, and enter the payment in the accounts in his office, which shall be a sufficient discharge of such tax, and such tax shall not be included in any account to be sent to the supervisors, or in any manner directed to be prosecuted. Receipts for taxes paid treasurer.

And be it further enacted, That the compensation to the assessors and supervisors for executing the duties enjoined on them by this act shall be allowed and paid in like manner as the county charges in this State are allowed and paid; and that each assessor shall be entitled to receive for his services one dollar and twenty five cents per day. Compensation of assessors.

Real estate
exempted
from as-
sessment.

And be it further enacted, That no house or lands belonging to the United States, or to the people of this State, nor any church or place of public worship, nor any personal property belonging to any minister of the gospel or to any priest of any denomination whatsoever, nor any real estate of such minister or priest not exceeding in value one thousand five hundred dollars, nor any college or incorporated academy nor any school-house, court-house, gaol, alms-house or property belonging to any incorporated library shall be taxed by any law of this State.

Property of
corporation
named
exempt
from taxa-
tion.

And be it further enacted, That the lands, buildings, improvements, premises and appurtenances called and known by the name of the Hamilton Manufacturing Society and every thing appertaining in and to the carrying on the manufactory of glass, together with the buildings of the workmen about the same, shall be and hereby are exempted from taxation for and during the term of five years from and after the passing of this act.

When act
to take
effect.

And be it further enacted, That this act shall not take effect until after the eighth day of November which will be in the year of our Lord one thousand eight hundred and two as to laying assessing or collecting any State tax upon or in respect to any part of a certain tract of two hundred and thirty thousand and four hundred acres of land granted by the Commonwealth of Massachusetts to Samuel Brown and others on the eighth day of November in the year of our Lord one thousand seven hundred and eighty seven; nor until the twenty first day of November which will be in the year of our Lord one thousand eight hundred and three as to laying, assessing or collecting any State tax upon or in respect to any lands in the counties of Ontario and Steuben which were confirmed to Nathaniel Gorham and Oliver Phelps by the Commonwealth of Massachusetts on the twenty first day of November in the year of our Lord one thousand seven hundred and eighty eight, nor as to laying, assessing or collecting any State tax upon or in respect to any other lands in the county of Ontario held under any grant from the Commonwealth of Massachusetts until after the eleventh day of May, which will be in the year of our Lord one thousand eight hundred and six.

Offences
against
this act

And be it further enacted, That all frauds and offences against this act or in the execution thereof, other than such for which penalties are above imposed shall be considered as misdemeanors, and all such offenders shall and may be prosecuted for the same by indictment or information in the supreme court, or any court of oyer and terminer and gaol delivery or sessions of the peace.

Common
council of
New York
to be board
of super-
visors.

And be it further enacted, That the mayor, recorder and aldermen of the city of New York shall in the city and county of New York perform all the duties enjoined by this act on the supervisors of the respective counties.

CHAP. 180.

AN ACT for defraying the public and necessary charge in the respective counties of this State.—

PASSED the 8th of April, 1801.

Annual
meetings
of super-
visors to
levy county
taxes.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the supervisors of the several cities and towns in each of the counties of this State, other than the city and county of New York, shall annually on the first Tuesday of October meet together

in the county of Tioga, in the village of Owego, in the town of Tioga in said county and in the other counties of this State at the court house in each county, and if there be no court house, then at the place where the last court of common pleas for such county shall or ought to have been held, and at such other times and places as they shall find convenient, in the county of Westchester however their next meeting shall be at the court house in Bedford and after that time alternately at the court house in White Plains and Bedford and examine, settle and allow all accounts chargeable against such county and ascertain what sum ought to be raised for the payment thereof, and for defraying the public and contingent charges of such county.—

And be it further enacted, That the compensation for the services of the assessors, inspectors of election, and commissioners of highways shall be considered as town expences, and it shall be lawful for the supervisors of the several counties in this State to audit the accounts of such town officers and the said supervisors shall ascertain the amount of each towns proportion of the county costs according to the value of the real and personal estates therein and as valued by the assessors in each town in the same year and to such sum add such other sum as shall be found by the said supervisors necessary to defray such town expences and such further sum as any such town shall have voted to be raised for the destruction of noxious animals birds and weeds in the same year with the sum to be raised in each town for maintenance of the poor thereof and shall cause all such sums to be raised and levied together with the taxes to be raised and levied for the use of this State by adding to the tax of each person liable to pay the same as the other contingent charges of the towns and counties are levied and collected and shall in their warrants to the collectors of each respective town direct such collector to pay the sum so raised and collected for town expences into the hands of the supervisor of the town for the payment of said town expences who shall for such money account with the justices of the peace and town clerk on or before the last Monday of September thereafter in each year and out of the first money which shall be collected, such collector shall pay to the overseers of the poor such money as shall be so raised for the maintenance of the poor of such town, and the residue of the money so collected by him to be paid to the treasurer of the county on or before the first day of February then next.

Accounts
of town
officers;
town
audits.

And be it further enacted, That if any collector in any city town or ward shall not pay to the supervisor and overseer of the poor thereof, the monies directed to be paid to them by such warrant within the time therein mentioned and produce to the county treasurer receipts for the same, from one or more of the said overseers and supervisor or satisfactory evidence of such payment within one week after the expiration of the time mentioned in such warrant, the same shall be deemed to be unpaid, and it shall be the duty of such treasurer to collect the same together with the other monies if any, which may be due from such collector for taxes and to proceed in the same manner for the recovery thereof as is directed in such cases by the act entitled "An act for the assessment and collection of taxes" and out of the first monies received by him on such proceedings to pay the same to the said supervisor and overseers.

Failure of
collector
to pay
over tax.

And be it further enacted, That the supervisors in each county shall as often as may be necessary appoint some proper person to be their clerk, and also some reputable feeholder of such county to be the treasurer of such county, which clerk and treasurer shall respectively hold their offices during the pleasure of the said supervisors *provided* that the

Clerk of
supervis-
ors; county
treasurers.

clerks and treasurers already so appointed shall continue to hold their offices during the pleasure of the said supervisors and the said treasurer shall receive all the monies raised in such county for defraying the public and necessary charges thereof and for the use of this State, and shall pay all the monies received by him for such charges as the said supervisors shall by any written order for that purpose direct, and all monies received by him for the use of the State to the treasurer of this State within the time required by law, and such treasurer shall keep a just and true account of the receipts and payments of all monies which shall come to his hands as treasurer of such county and enter the same in a book or books to be kept for that purpose, and once in every year at the annual meeting of the said supervisors or at such other time as they shall direct shall exhibit to them all such books and accounts and all vouchers relating to the same, to be allowed and audited.

Bond of
treasurer.

And be it further enacted, That the treasurer of every county before he enters upon the execution of his office shall enter into a bond to the supervisors of such county with sufficient sureties to be approved of by them and in such sum as they shall direct conditioned that he shall well and faithfully execute the office of treasurer in such county and pay all monies which shall come to his hands as treasurer according to law, and render a just and true account thereof to the said supervisors or to the comptroller of this State when thereunto required; which shall be deposited in the clerk's office of the respective counties and it shall be the duty of the said supervisors in case the condition of such bond shall not be complied with, or if required by the comptroller of this State, to prosecute one or more actions of debt on such bond in any court of record against the obligors in such bond or either of them or the heirs executors or administrators of all or any of the said obligors, and it shall also be lawful for the said supervisors to commence an action for money had and received or an action of account against such treasurer his executors or administrators for all monies received by him as treasurer other than for the use of this State; all which actions may be maintained in the name of the said supervisors generally and shall not abate or be discontinued by the death or expiration of office of any of them and all monies recovered in any such action shall be applied by the said supervisors to the payment of the contingent charges of such county or if the same or any part thereof shall have been received by such treasurer for the use of this State and recovered on such bond at the instance of the comptroller the same shall be paid by the said supervisors to the treasurer of this State.

Transfer
of records
to suc-
cessor of
treasurer.

VI. *And be it further enacted,* That upon the death, resignation or removal from office of any county treasurer, all the books and papers belonging to his office, upon the oath of the preceding treasurer, or in case of his death shall be delivered to his successor in office upon the oath of his executors or administrators and if any such preceding treasurer, or his executors or administrators shall refuse or neglect to deliver the same, upon oath as aforesaid, being lawfully demanded, every such person shall forfeit and pay, for every such refusal or neglect, the sum of one thousand two hundred and fifty dollars, to be recovered with costs of suit, for the use of the same county, in the name of the supervisors of such county, by action of debt, or by information, in any court of record; and in every such action, or information, it shall be sufficient for the plaintiff to set forth, that the defendant on the day such demand was made, became indebted to the supervisors of such county in the sum of one thousand two hundred and fifty dollars, as a forfeiture for refusing and neglecting to deliver up the books and papers

belonging to the office of treasurer of such county, according to the form of this act to be paid to the supervisors of the same county when he should be thereunto required, and to give the special matter in evidence.—

VII. *And be it further enacted*, That a majority of the supervisors of any county shall constitute a legal and competent board to transact all business at any meeting of the said supervisors and their doors shall be open to all citizens who may wish to attend such meeting, and all questions which shall arise at any such meeting shall be determined by the opinion of the majority of such supervisors attending the same. Majority may act.

And be it further enacted, That all conveyances of any lands made or to be made to the supervisors of any county in this State for the use of such county shall be valid and vest in the supervisors of such county and their successors in office the estate and interest intended by such conveyances and for the uses therein expressed.— Conveyances by supervisor

And be it further enacted, That the supervisors of each of the counties of this State shall be allowed as a compensation for their services and expences in attending their meetings in such county the sum of two dollars per day and no more, and the clerk of the supervisors in each county shall be allowed for his services such sum as the supervisors of such county shall from time to time direct, which sums shall be raised and levied as part of the contingent charges of such county; and every county treasurer shall be entitled to retain for his services a commission at the rate of one cent for every dollar which he shall receive and pay, to wit, one half of such commission for receiving and the other half for paying.— Compensation of supervisors, clerk and treasurer.

And be it further enacted, That if any supervisor shall neglect or refuse to perform any of the duties required of him by this act, he shall, for every such offence, forfeit to the people of this State the sum of two hundred and fifty dollars, to be recovered, with costs, in any court of record, by action of debt or by information, and in every such action or information, it shall be sufficient to set forth, that the defendant at a certain time and place, became indebted to the people of this State in the sum of two hundred and fifty dollars as a forfeiture incurred for refusing and neglecting to perform the duties required of him by this act, to be paid to the said people when he should be thereto required, and to give the special matter in evidence, and in case of any such forfeiture it shall be the duty of the attorney general when required by the comptroller to cause the same to be prosecuted and when recovered the same shall be paid into the treasury of this State.— Penalties for neglect by supervisors.

And be it further enacted, That it shall be the duty of the supervisors of every county in this State as often as shall be necessary to cause the court house and gaol of their county to be duly repaired and for that purpose they are hereby authorized and required from time to time to direct to be raised and levied on the freeholders and inhabitants of their county sufficient sums of money for such repairs as part of the contingent charges of such county not exceeding the sum of five hundred dollars in any one year.— Repairs to court-houses and jails.

CHAP. 181.

AN ACT for the more effectual collection of taxes in the city and county of New York.

PASSED the 8th of April, 1801.

Levy of
taxes in
New York
city and
county.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the mayor, recorder and aldermen of the city of New York, shall be the supervisors of the said city and as such shall annually on the second Tuesday of July meet together at the city hall of the said city, and at such other times and places as they shall find necessary, and examine and ascertain what sums of money are by law imposed on the said city in that year for the maintenance of the poor, for defraying the contingent charges of said city and for other purposes, and shall cause the same to be raised, levied and collected in the said city in the same manner as the contingent charges of the several counties of this State are directed to be levied and collected by the act entitled "An act for defraying the public and necessary charge in the respective counties of this State," and the same shall in like manner be paid to the chamberlain of the said city and the said mayor aldermen and commonalty and chamberlain shall respectively proceed relative thereto in like manner and subject to the like restrictions and regulations as the commissioners of taxes and treasurers of the other counties of this State are by the said act respectively required to do in relation to the contingent charges of the said counties.

Chamber-
lain.

And be it further enacted, That the chamberlain of the said city shall in respect to all monies so to be levied and collected and also in respect to all monies to be levied and collected in the said city for the use of this State perform the like duties as the treasurers of the several counties of this State are by the said act required to do and perform and be accountable in like manner to the said mayor, recorder and aldermen as the supervisors of the said city, and once in every year, between the third Tuesday of November and the first Tuesday of December and at such other times and at such places as the said mayor, recorder, and aldermen shall direct exhibit to them his books and accounts and all vouchers relating to the same to be examined and audited, and shall also before entering upon the execution of his office give the like security by bond to the mayor, aldermen and commonalty of the said city, and the obligors in such bond their heirs executors or administrators shall jointly and severally be liable to be prosecuted on such bond and such chamberlain shall also be liable to such other actions and in the like cases as the said treasurers of the other counties of this State and their sureties are respectively liable to by the said act and the monies recovered in any such action shall be paid and applied in the like manner; and in case of the death resignation or removal from office of such chamberlain all the books and papers belonging to his office shall be delivered to his successor in office upon oath in like manner as in the case of the death, resignation or removal from office of the treasurer of any other county an upon refusal or neglect so to do when lawfully demanded every person so refusing or neglecting shall forfeit the like penalties to the mayor, aldermen and commonalty of the said city to be recovered and applied in like manner as in the case of such refusal or neglect on the death resignation or removal from office of the treasurer of any other county.

And be it further enacted, That all monies which shall come to the hands of the chamberlain of the said city, for the maintenance of the poor, and for defraying the other contingent expences of the said city or for any other purpose in the said city and for any penalties or forfeitures incurred by virtue of this act, and appropriated hereby to the use of the said city shall be paid by him to such persons and in such manner, as the mayor, aldermen and commonalty of the said city in common council convened by warrant under the hand of the mayor or recorder of the said city, presiding in such common council, shall from time to time direct, and the said chamberlain shall be entitled to retain for his services seven mills for every dollar which he shall receive and pay, one half for receiving and the other half for paying, and he shall annually on the first Monday in December publish in one or more of public news papers in the said city a statement of all monies received by him for the use of the said city and the purposes to which the same have been applied as mentioned in such warrants.—

Payments from city treasurer; compensation of chamberlain.

And be it further enacted, That it shall be lawful for the mayor, recorder and aldermen of the said city or any five or more of them, of whom the mayor or recorder shall always be one, to do and perform every act, which the said mayor, recorder and aldermen are by this act authorized or required to do, and all questions at any meeting shall be determined by the opinion of the majority of the members attending the same.

Quorum.

V. And be it further enacted, That if any mayor, recorder or aldermen of the said city and county of New York, shall willfully neglect or refuse so perform any of the duties required of him by this act, he shall for every such offence incur the like forfeiture as in the case of such refusal or neglect by any supervisor in the other counties of this State by virtue of the said act and to be recovered and applied in like manner.—

Neglect by city officers

And be it further enacted, That the collectors of taxes in the city and county of New York, shall severally on the first Monday in each and every month and oftener if thereunto required by the said chamberlain or treasurer pay to the said chamberlain or treasurer the monies by them from time to time collected, and shall exhibit to him their respective assessment rolls, whenever they shall be so required to do by said chamberlain for the inspection of the mayor, alderman and commonalty aforesaid under the penalty of two hundred and fifty dollars for each default in the premises to be sued for in any court having cognizance of the same, and it shall be the duty of the said mayor, aldermen and commonalty in common council convened to prosecute for the same, and to appropriate such penalties when recovered to the support of the poor of said city.

Collectors of taxes.

CHAP. 182.

AN ACT to vest certain powers in the freeholders and inhabitants of the village of Poughkeepsie.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the district of country contained within the following bounds that is to say: Beginning at the mouth of a small brook falling into Hudson's river a small distance south of a point of

Poughkeepsie, bounds of village; trustees.

land commonly called Ship-Yard Point, which mouth of said brook, is on the land of the late Henry Livingston deceased; thence east, as the magnetic needle now points one hundred and thirty chains, to a stone set in the ground on which is engraved the word "Corporation"; again from the mouth of the brook aforesaid northerly along Hudson's river (including the flats or shoals between high water's mark and the channel of said river) to the mouth of another small brook, or where the same joins the waters of Hudson's river aforesaid, which last mentioned brook is commonly known by the name of Kidney's creek or kill, and divides the land of Robert L. Livingston from the land of Abraham Pells; then from the mouth of the said brook last mentioned up the middle of the same however it runs to the post road, thence due east as the magnetic needle now points so far as that on a straight line due west, it will be one hundred and thirty chains distant from Hudson's river to a stone set in the ground, on which is engraved the word "Corporation"; and thence in a direct line to the stone set in the ground first above mentioned, shall continue to be known and distinguished by the name of the village of Poughkeepsie, and the freeholders and inhabitants of the said village qualified to vote at town meetings, and who may from time to time reside within the aforesaid limits, shall annually, on the third Tuesday of May, meet at some proper place to be appointed by the trustees and notified to the inhabitants thereof at least one week previous thereto, and then and there proceed to choose five discreet freeholders, resident within the said village to be trustees thereof, who when chosen, shall possess the several powers and rights herein after specified; and the trustees shall preside at such meeting, and shall declare the several persons, having the greatest number of votes, as duly chosen trustees.

Powers and
privileges
of corpora-
tion; assess-
ors.

And be it further enacted, That all the freeholders residing within the aforesaid limits, be and they are hereby ordained, constituted and declared to be from time to time, and for ever hereafter a body politic and corporate, in fact and in name, by the name of "The Trustees of the Village of Poughkeepsie" and by that name, they and their successors for ever, shall and may have perpetual succession, and be persons in law capable of suing and being sued, and of defending in all courts and places whatsoever, in all manner of actions, complaints and causes whatsoever, and that they and their successors, may have a common seal, and may change and alter the same at pleasure, and shall be in law capable of purchasing, holding and conveying any estate, real or personal for the public use of the said village and of erecting any public buildings for the use of the said village, and of raising money by tax for erecting those public buildings, or making any other necessary repairs or improvements, which money so to be raised, shall be assessed upon the freeholders and inhabitants of the said village according to law, by not less than three, nor more than five judicious assessors, who shall be freeholders in said village to be by the freeholders and inhabitants of the said village qualified to vote at town meetings, chosen at their annual meetings, and collected by the collector of the corporation in like manner as the taxes of towns and counties are collected, by virtue of a warrant to him directed by a majority of the trustees: *Provided nevertheless,* that no tax shall be levied or monies raised, assessed or collected, for erecting public buildings, or making any other necessary repairs or improvements, no purchase or sale of any real estate, no public building erected or disposed of, without the consent of the freeholders and legal voters of the said village of Poughkeepsie, or the major part thereof in open meeting, first obtained.

And be it further enacted, That it shall be lawful for the trustees of the said village, or the major part of them and their successors to make, ordain, constitute and publish such prudential bye-laws, rules and regulations, as they from time to time, shall deem meet and proper, and such in particular as are relative to public markets within the said village, relative to the streets, alleys and highways of the said village, and draining, filling up paving, keeping in order and improving the same; relative to slaughter houses and nuisances generally; relative to a town watch and lighting the streets of the said village; relative to the number of taverns or inns to be licensed in the said village; relative to the restraining geese, swine or cattle of any kind; relative to the better improving their common lands; relative to the inspection of weights and measures; relative to erecting and regulating hay-scales, and relative to any thing whatsoever that may concern the public and good government of the said village; but no such bye-laws shall extend to the regulating or ascertaining the prices of any commodities or articles of provision, except the article of bread, that may be offered for sale: *Provided also,* that such bye-laws be not contrary to, or inconsistent with the laws and statutes of this State and of the United States.

By-laws
and ordi-
nances.

And be it further enacted, That the said trustees or the major part of them, as often as they shall make, ordain and publish any such bye-laws for the purposes aforesaid, may make, ordain, limit and provide such reasonable fines against the offenders of such laws, as they may think proper, not exceeding twenty five dollars for any one offence, to be prosecuted and recovered before any justice of the peace, or court having cognizance of the same, by the trustees to and for the use of said corporation.

Penalties.

And be it further enacted, That it shall be lawful for the trustees of the said village of Poughkeepsie, or the major part of them, and their successors, to make, ordain, constitute and publish a bye-law prohibiting any baker, or other person within the limits aforesaid, from selling any bread at any higher price or rate, than bread of the like quality at the time of such sale, shall be assized in and for the city of New York by the corporation of the said city, under the penalty of one dollar for every offence, to be recovered by the said trustees before any justice of the peace residing in the said village, or within the county of Dutchess, in an action of debt, with costs of suit for the use of the said corporation.

Bread,
price of.

And be it further enacted, That the freeholders and inhabitants of the said village of Poughkeepsie qualified to vote at town meetings, at their annual meetings, in every year hereafter to be held for choosing trustees, or at any other meeting duly notified, shall and they are hereby authorized and empowered to choose not less than three, nor more than five judicious inhabitants being freeholders, as assessors, one treasurer being also a freeholder, one collector, and as many fire-wardens as the trustees for the time being, or the major part of them may order and direct: And that at every such election, the person or persons having the greatest number of votes for such offices respectively, shall be deemed to be duly chosen; and in case a vacancy shall happen by the death of any one of the assessors, the treasurer, collector or fire wardens, it shall be the duty of the trustees or the major part of them, within ten days thereafter, to appoint some suitable person to fill such vacancy; and the person so to be appointed, shall be vested with the like powers and subject to the same penalties and restrictions, as if elected by the freeholders and inhabitants of said village as above mentioned.

Election of
village
officers.

Oaths of
office.

And be it further enacted, That the trustees, treasurer, collector, assessors and fire wardens, shall within ten days after every election and before they proceed to the exercise of their several offices, respectively take and subscribe an oath or affirmation before any justice of the peace in the said village or within the county of Dutchess for the faithful execution of the trust or office, to which they may be severally elected.

Bonds.

And be it further enacted, That the treasurer and collector hereafter to be elected, shall before they enter upon the execution of their offices, respectively give, such security for the faithful performance of the trusts reposed in them, as the major part of the trustees for the time being shall deem sufficient.

Penalty for
refusal to
accept
office.

And be it further enacted, That if any one of the inhabitants of said village qualified as aforesaid, shall hereafter be elected or chosen a trustee, or to the office of assessor or fire warden, and having notice of his said election, shall refuse or neglect to take upon him the trust or office to which he be so elected, it shall and may be lawful for the trustees or the major part of them to assess and impose upon every such person, so neglecting or refusing, such reasonable fine or fines, as the said trustees, or a major part of them may think fit, so as such fine for each refusal or neglect shall not exceed the sum of twenty dollars, all which said fines shall and may be recovered by action of debt before any justice of the peace in the said village or within the county of Dutchess, or any court having cognizance of the same, to be recovered and received by the said trustees, to and for the use of the said corporation; that in all cases where the trustees of the village of Poughkeepsie are authorized or required to sue or prosecute for any debts, penalties, fines or forfeitures by virtue of this act, it shall be sufficient for the said trustees in any suit or action to be brought for any such debt penalty, fine or forfeiture, to declare generally that the defendant is indebted to the trustees of the village of Poughkeepsie in the amount of such debt, penalty, fine or forfeiture by virtue of this act, to be paid to the said trustees when thereunto required; and under such declaration, to give the special matter in evidence.

And whereas it is necessary for the good government of the said village, that it, should be more particularly, the business of some one of the trustees of the said village to attend to its more immediate concerns: Therefore,

President
of trustees,
duties of.

Be it further enacted, That the trustees within ten days after their being elected in every year hereafter, or the major part of them shall and it is hereby made their duty to assemble in some convenient place in the said village and there to choose and appoint some one suitable person of their body to be president of the said board of trustees whose duty it shall be, when present to preside at the meeting of the trustees, to order extraordinary meetings of the trustees whenever he may find it for the interest of the village so to do, to receive complaints of the breach of any of the bye laws, to see that all the bye laws, rules and ordinances are faithfully executed, and prosecute in the name of the trustees all offenders against such bye laws, to receive and lay before the trustees the returns of the fire wardens, and who with the consent of the major part of the trustees, shall appoint under his hand and the seal of the said village the company of firemen, to inspect the utensils belonging to the said village for extinguishing fires, and whose duty it shall be more particularly to see the engines and fire utensils, engine houses and all other public property belonging to the said village suitably and properly taken care of and kept in order; and to do all such other acts and things as may be proper for him, as president of the

board of trustees to do; and in case of the death, absence or disability of the president to discharge the several duties before mentioned, his place shall be supplied in the manner hereafter to be provided for, by the bye-laws of the said corporation.

And be it further enacted, That the collector shall within such time as shall hereafter be provided for by the bye-laws of the said corporation, next after the receipt of his warrant, for collecting any tax, that may have been ordered to be raised, collect and pay the same to the treasurer; and that all monies which may at any time be in the hands of the treasurer, shall be liable to be drawn out by the trustees or the major part of them, and applied and disposed of, as shall have been directed by the freeholders and inhabitants of said village. Collector.

And be it further enacted, That the said trustees shall keep a just and accurate account of their necessary expences and disbursements, and on exhibiting the same to the treasurer, shall be entitled to receive the amount thereof out of any monies in the treasury; and that the treasurer, collector and assessors shall be paid for their several services such suitable compensation as the legal voters of the said corporation, or a majority of them at their annual meetings shall deem reasonable and proper. Accounts of village; compensation of officers.

And be it further enacted, That the firemen who may at any time hereafter be appointed in the said village, and each and every of them shall be exempted from serving as jurymen or in the militia of this State, except in cases of the actual invasion of this State or insurrections therein: *Provided* that the number of firemen shall not exceed twenty. Firemen.

And be it further enacted, That it shall not be lawful for the said corporation to purchase or hold any real estate whatsoever, not lying or being within the limits of the said corporation. Power to hold real estate.

CHAP. 183.

AN ACT for the limitation of criminal prosecutions and of actions of law.

PASSED the 8th of April, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That the people of this State will not sue or implead any person, body politic or corporate for or in respect to any lands, tenements or hereditaments, (other than liberties or franchises,) or the issues or profits thereof, by reason of any right or title of the said people to the same, which shall not have accrued within the space of forty years before any suit or other proceeding for the same be commenced, unless the said people or those under whom they claim shall have received the rents and profits thereof, or of some part thereof, within the said space of forty years, and in every case where such title shall not have accrued within the time aforesaid unless such rents and profits shall have been received as aforesaid the person, body politic or corporate holding such lands tenements or hereditaments (other than liberties or franchises) shall freely hold, and enjoy the same against the said people and also against all persons claiming by or under them, except such persons shall claim by virtue of any letters patent or grants from the said people made upon suggestion of concealment or wrongful detaining or defective title upon which a verdict judgment or decree in Limitation of actions; actions by State for lands, forty years.

some court of record in this State shall have been given for such lands tenements or hereditaments in favor of the said people, or of such patentee or grantee his or their heirs or assigns within the said space of forty years before commencing any suit or other proceeding for the same.

Actions for
lands by
individual,
twenty-five
years.

And be it further enacted, That no action for the recovery of any lands tenements or hereditaments shall hereafter be maintained, nor any avowry or cognizance be made, unless on a seisin or possession of the hereditaments, either of the plaintiff or person making avowry or cognizance, or of the ancestor or predecessor of such plaintiff or person making avowry or cognizance, within twenty five years next before such action brought or avowry or cognizance made; *provided always* that no part of the time, during which the plaintiff or person making avowry or cognizance, shall have been within the age of twenty one years, insane, feme covert, or imprisoned, shall be taken as a part of the said limitation of twenty five years. And if any such action be brought or avowry or cognizance made, and such seisin or possession be not proved by the plaintiff in such action, or person making such avowry or cognizance, such plaintiff and such person making such avowry or cognizance, and their heirs and successors respectively shall for ever thereafter be barred from bringing such action or making such avowry or cognizance —

Writs of
scire
facias, and
entries,
twenty
years.

And be it further enacted, That all writs of scire facias upon fines, of any manors, lands, tenements or hereditaments hereafter to be brought shall be sued and taken within twenty years next after the title & cause of action first descended or fallen, and not after; and no person shall at any time hereafter make any entry into any manors, lands, tenements or hereditaments, but within twenty years next after his right or title descended or accrued to the same; and in default thereof such person so not entering, and his heirs shall thereafter be barred from making such entry. *And further* that no claim or entry of or upon any manors, lands, tenements or hereditaments, shall be a sufficient entry or claim, within the meaning of this act, unless an action shall be commenced thereupon, within one year next after making of such entry or claim, and prosecuted with effect; *provided,* that if any person entitled to any such writ of scire facias, or to make such entry be at the time such right or title first descended or accrued within the age of twenty one years, feme covert, insane or imprisoned, such person and his heirs shall or may after the said twenty years be expired, bring such action or make such entry as he or they might have done before the expiration of the said twenty years, so as such person within ten years after such disability removed, or the heir or heirs of such person within ten years after his death, sue forth such writ or make such entry, and at no time after ten years as aforesaid —

Taking
away of
right of
entry by
disseisin,
five years.

And be it further enacted, That any disseisor dying seised of any lands, tenements or hereditaments having no right or title therein shall not be taken or deemed any such descent in the law as to toll or take away the entry of any person or his heirs who at the time of such descent shall have lawful right of entry therein, (unless such disseisor shall have had the peaceable possession of the lands, tenements or hereditaments whereof he shall so die seized for the space of five years next after the disseisin by him committed without entry or continual claim by or of the person or persons having lawful title thereto.

Actions to
be brought
in six
years; four
years; two
years.

V. *And be it further enacted,* That all actions upon the case, and of account, other than actions for slander and actions which concern the trade of merchandize between merchant and merchant, their factors or servants; and all actions of debt for arrearages of rent or founded upon any contract without specialty; and all actions of trespass, detinue and

replevin for goods or chattels, and actions of trespass quare clausum fregit, shall be commenced and sued within six years next after the cause of such actions accrued and not after, and all actions for assault, battery, wounding and imprisonment or any of them shall be commenced and sued within four years next after the cause of such actions accrued and not after; and all actions on the case for words, within two years after the words spoken and not after; *provided however* that if in any of the said actions judgment shall be given for the plaintiff, and the same be reversed by error, or if a verdict pass for the plaintiff, and upon matter alledged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, or if any of the said actions shall be brought by original, and the defendant therein be outlawed, and shall after reverse the outlawry; in all such cases, the party plaintiff, his heirs, executors, or administrators as the case shall require, may commence a new action from time to time, within one year next after such judgment reversed. or such judgment given against the plaintiff, or outlawry reversed and not after; *and provided also*, that if any person entitled to any of the said actions shall at the time of the cause of action accrued be within the age of twenty one years, feme covert, insane, or imprisoned, such person shall be at liberty to bring the said actions within the respective times above limited after such disability removed, and if any person against whom any cause of any such action shall accrue shall be out of this State at the time the same shall accrue, the person who shall be entitled to such action shall be at liberty to bring the same within the times respectively above limited after the return of the person so absent, into this State —

Proviso as
to infants,
femes
covert, in-
sane, etc.

And be it further enacted, That all actions, informations, and indictments which at any time hereafter shall be brought, sued or exhibited, for any forfeiture upon any penal statute made or to be made, whereby the forfeiture is or shall be limited to the people of this State only, shall be brought, sued or exhibited, within two years next after the offence committed or to be committed against such penal act, and not after; and that all actions or informations, which shall at any time hereafter be brought, sued or exhibited for any forfeiture upon any penal statute, made or to be made, the benefit and suit whereof is or shall be by the said statute limited or given to any person who shall prosecute for the same, or to the people of this State and to any other who shall prosecute in that behalf, shall be brought, sued or exhibited, by any person who may lawfully pursue for the same, within one year next after the offence committed, or to be committed against the said statute; and in default of such pursuit, that then the same shall be sued brought, or exhibited for the people of this State, at any time within two years after that year ended; and that all actions or informations which shall at any time hereafter be brought, sued or exhibited, for any forfeiture or cause upon any statute made or to be made, the benefit and suit whereof is or shall be given or limited to the party aggrieved, shall be brought, sued or exhibited, within the space of three years next after the offence committed or to be committed or cause of action accrued, and not after. And if any action, information or indictment for any offence against any statute made or to be made, shall be brought after the time in that behalf above limited, the same shall be void: *Provided always*, that where any action, information, indictment or other suit, is or shall be limited by any statute to be sued, brought or exhibited within a shorter time than is hereby limited, then the same shall be brought within the time limited by such statute —

Actions to
be brought
in two
years.

One year.

Three
years.

Indictments, etc., three years.

Proviso as to residence.

Period of time not to be counted.

And be it further enacted, That all suits, informations and indictments which shall hereafter be brought or exhibited for any crime or misdemeanor (murder excepted,) shall be brought or exhibited within three years next after the offence shall have been committed and not after, and if brought or exhibited after the time hereby limited the same shall be void: *Provided however,* that if the person against whom such suit, information or indictment shall be brought or exhibited shall not have been an inhabitant or usually resident within this State during the said three years, then the same shall or may be brought or exhibited against such person at any time within three years during which he shall be an inhabitant or usually resident within this State after the offence committed; *and provided also* that where any suit information or indictment for any crime or misdemeanor is limited by any statute to be brought or exhibited within a shorter time than is hereby limited, then the same shall be brought or exhibited within the time limited by such statute —

And be it further enacted, That no part of the time from the fourteenth day of October, in the year one thousand seven hundred and seventy five to the twenty first day of March one thousand seven hundred and eighty three, shall be deemed or adjudged as part of the respective periods herein before limited for making any title, prescription, cognizance or claim or bringing any action or suit whatsoever —

CHAP. 184.

AN ACT for the settlement and relief of the poor —

PASSED the 8th of April, 1801.

Support of poor.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That every city and town shall support and maintain their own poor —

Legal settlement, how obtained.

And be it further enacted, That every person who shall have come to inhabit in any city or town within this State, and shall actually and bona fide have rented and occupied a tenement of the yearly value of thirty dollars, or upwards, for two years, and actually paid such rent, or shall for himself, or on his own account, have executed any public annual office, or charge, in such city or town, during one whole year, or who shall have been charged with, and paid his or her share towards the public taxes of such city or town, for the space of two years; and every person who shall have been bound an apprenticed or servant by indenture, or by any deed, contract or writing not indented, and shall in consequence of such binding, have served a term not less than two years, in such city or town, shall be deemed and adjudged to have obtained a legal settlement in such city or town; and that all mariners, coming into this State, and having no settlement in this State, or in any other of the United States of America, and every other healthy able bodied person, coming directly from some foreign port or place into this State shall be deemed and adjudged to be legally settled in the city or town in which he or she shall have first resided for the space of one year. —

Bastards.

And be it further enacted, That every bastard child shall be deemed and adjudged to be settled in the city or town of the last legal settlement of his or her mother. —

And be it further enacted, That no person shall be deemed, to gain a settlement in any city or town within this State by virtue of any purchase of any estate or interest in such city or town, whereof the consideration for such purchase shall not amount to the sum of seventy five dollars, bona fide paid, for any longer or further time than such person shall inhabit in such estate; and shall thereafter be liable to be removed to the city or town, where such person was last legally settled before the said purchase and inhabitancy therein.—

Purchase of real estate of less value than \$75.

And be it further enacted, That if any person other than those herein before mentioned, coming into any city or town within forty days after such person coming into such city or town, deliver a notice in writing to any two overseers of the poor of such city or town, into which such person shall so come to reside, of the house or place of his abode, and the number and names of his family (if he shall have any) which notice such overseers of the poor are hereby required to cause to be registered within forty eight hours after receipt thereof in the book kept in such city or town for the accounts of the poor), and in case the overseers of the poor of such city or town, shall not within twelve months after such notice cause such persons to be removed out of such city or town in the manner herein after mentioned, then and in such case, the person so giving notice as aforesaid, shall be deemed and adjudged to be legally settled in such city or town.

Registry of persons coming to inhabit.

And be it further enacted, That if any overseer of the poor, shall refuse or neglect to register, or cause to be registered such notice in writing as aforesaid, in such time and manner as aforesaid, he shall for every such refusal or neglect, forfeit the sum of five dollars, to the use of the party aggrieved; to be recovered with costs, of suit in any court having cognizance thereof—

Neglect of overseer to register.

And be it further enacted, That if any overseer of the poor of any city or town, shall have reason to believe that any stranger who shall have come to reside in such city or town, and who shall not have obtained a legal settlement therein, is likely to become chargeable to such city or town, such overseer shall apply to any two justices of the peace of such city, or of the county in which such town shall lie, and inform them thereof. And the said justices being so or otherwise informed, or suspecting such stranger to be of insufficient ability or likely to become a charge to such city or town, are hereby authorized and required to issue their warrant to a constable of such city or town, thereby commanding him to bring such stranger before them, at such time and place as they, in their said warrant shall for that purpose appoint; and the said justices shall examine every stranger, so brought before them, and any other person whom they may think necessary, upon oath, relating to the abilities, and last place of legal settlement of such stranger; and if upon such examination the said justices shall find such stranger likely to become a charge to such city or town, they shall order and direct such stranger by a certain day to remove to the place of his former settlement; and on neglect or refusal to comply with the said order, the said justices shall issue a warrant under their hands and seals directed to any constable of such city or town (who is hereby required and commanded to execute such warrant) thereby commanding him to convey or transport such stranger to the constable of the next city or town, through which such stranger shall have been suffered to wander unapprehended; and so from constable to constable or in such other manner, by the nearest and most convenient rout, as the said justices shall think fit to direct, to the place of legal settlement of such stranger, if the same shall be within this State. And if such stranger hath no place of legal settlement within

Removal of person to place of last legal settlement

this State, or if the said justices shall not be able to discover where the last place of legal settlement of such stranger was, then the said justices shall, in their said warrant, direct that he be conveyed and transported to the city or town from whence he last came; and the constable so conveying such stranger shall deliver him together with his warrant aforesaid, to or at the house of some constable of such city or town, which constable is hereby required to receive such stranger, and convey him to the next constable, and so from constable to constable, or otherwise, as such justices shall direct as aforesaid, until such stranger shall be transported out of this State into the State from whence he came —

Forfeiture
for house-
holder fail-
ing to give
notice of
presence
of stranger

And be it further enacted, That if any inhabitant of this State shall receive or entertain in his dwelling house, out house, or family, for the space of fifteen days, any person who hath not gained a settlement in some city or town within this State, and shall not within the time aforesaid, give notice in writing to one of the overseers of the poor of such city or town, of the name, quality, condition and circumstances of the person so entertained, according to the best knowledge of such inhabitant, every such inhabitant shall for every such offence, forfeit the sum of five dollars, to be recovered with costs of suit before any court having cognizance thereof, by any person who shall sue for the same; one half of which forfeiture, when recovered, to be paid to the overseers of the poor of such city or town, and the other half to the person who shall sue for the same as aforesaid.

Bonds to
be given
by house-
holder.

And further if the person so entertained as aforesaid, shall have remained in any city or town longer than the term of forty days then it shall be lawful for any two justices of the peace of such city or of the county in which such town shall lie, to cause such of the inhabitants of such city or town, who shall have so entertained such stranger during the term of fifteen days, without giving information thereof as aforesaid, to be brought before them, and such inhabitants shall enter into bond to the overseers of the poor of such city or town, and their successors, in the sum of two hundred and fifty dollars, conditioned, that such stranger shall not become a charge to such city or town. And in case any of the said persons, who shall have entertained such stranger as aforesaid, being in the opinion of such justices of the peace of sufficient ability, shall refuse to become bound as aforesaid, it shall be lawful for said justices of the peace, by warrant under their hands and seals, directed to any constable of such city or town, to cause such person to be committed to the common gaol of such city, or of the county in which such town shall lie; there to remain until such person shall consent and become bound as aforesaid. But if the person so entertaining such stranger shall not in the opinion of the said justices, be of sufficient ability to become bound as aforesaid, or if the said justices shall not think fit to take such bond, then they shall cause such stranger to be conveyed from constable to constable in manner aforesaid, until he shall be transported to the place of his or her last settlement, if within this State, or into any other of the United States if from thence such stranger came —

Removal
of stranger.

Services of
constables.

And be it further enacted That every constable transporting any stranger, shall receive so much money for his services, as the supervisors of the city or county shall judge he reasonably deserved to have; *and further* that the charges of every transportation shall be borne by such city or county, and be raised, collected and paid in the same manner as other monies for the contingent charges of such city or county.

Stranger to
be whipped
on return

And be it further enacted That if any person so removed or transported as aforesaid, shall return to this State, or from the place of his

legal settlement, to the city or town from whence he was so removed or transported, so as to be likely to become a burthen to such city or town, such person so returning, shall, by warrant from any two justices of the peace of such city or of such county in which such town shall lie, be apprehended and retransported as aforesaid, and shall by every constable into whose charge such person shall come, if the justices so removing him, shall think proper and so direct, be whipped, if a man, not exceeding thirty nine lashes, and if a woman, not exceeding twenty five lashes, and so, as often as such person shall return after such transportation.

after removal.

And be it further enacted, That if any person be removed by virtue of this act, from one city or town to another within this State, the overseers of the poor of the city or town to which the said person shall be so removed, are hereby required to receive the said person, and if they or any of them shall refuse or neglect so to do, the overseer so refusing or neglecting, shall, if thereof convicted by the oath of two witnesses, forfeit and pay, for each offence, the sum of twenty five dollars to the use of the poor of the city or town from which the said person was so removed, to be recovered, with costs of suit in any court having cognizance thereof, by the overseers of the poor of such city or town from which such person was so removed — *Provided always,* that no person nor any child belonging to such person, shall gain a settlement in the city or town to which he or they shall be so removed, but his or their settlement shall remain as before such removal —

Penalty for overseer failing to receive person removed to his city or town by virtue of this act.

And be it further enacted, That if any person who shall think proper to remove out of any one city or town within this State, into any other, there to inhabit or reside, and shall at the same time procure and deliver to the overseers of the poor of the city or town where such person shall so come to inhabit or reside, or to any one of them, a certificate under the hands and seals of the overseers of the poor, or of any two of them of the city or town of such person's last legal settlement, attested by two or more credible witnesses, thereby owning or acknowledging the person mentioned in such certificate, to be an inhabitant legally settled in the city or town mentioned in such certificate, which certificate shall be either acknowledged by the overseers of the poor giving the same, or shall be duly proved by the witnesses who shall have attested the execution thereof, or one of them, before any justice of the peace of the city, or of the county wherein the town from whence any such certificate shall come, shall be, and shall be approved of and subscribed by such justice of the peace; then it shall be lawful for every such person, with his family, if any, upon the delivery of such certificate as aforesaid, to remain in any such city or town, to which such person shall remove as aforesaid, and to follow any employment within the same; and the overseers of the poor shall deliver every such certificate to the town clerk of the city or town in which any such person shall come to reside as aforesaid, who is hereby required to file and record the same; *and further* that every such certificate so acknowledged or proved and allowed as aforesaid, shall be deemed in all courts whatsoever within this State, as duly proved, and shall be taken and received as evidence, without any other proof thereof.

Certificate of legal settlement

And be it further enacted, That whenever any person, with his family, if any, or any part thereof, so remaining by virtue of the certificate aforesaid, shall become chargeable, or be obliged by sickness or otherwise, to ask relief of the city or town into which such person was received as aforesaid, then, and not before, it shall be lawful for any two justices of the peace of the city or county into which such person

Poor charges of family holding certificate.

was received by virtue of such certificate, to remove and convey every such person with his family and children, though born in such city or town, and servants and apprentices, not having otherwise acquired a legal settlement there, to the city or town from which such certificate was brought as aforesaid; the overseers of the poor of which city or town are in such case hereby required and obliged to receive and provide for every such person and his family as aforesaid —

How person holding certificate may gain legal settlement.

And be it further enacted, That no person who shall come to reside in any city or town, by virtue of any such certificate, shall be deemed or adjudged by any act whatsoever of such person, to have gained a legal settlement in such city or town, during the time such person shall reside there by virtue of such certificate unless such person shall bona fide, purchase a freehold of the value of seventy five dollars or upwards, or bona fide, have rented and occupied a tenement of the yearly value of thirty dollars or upwards, for two whole years, or shall have executed a public annual office or charge in such city or town, for one whole year as aforesaid —

Reimbursement of town for expenses incurred by removal of person residing under certificate.

And be it further enacted, That when any person or his family residing in any city or town, or sent thither by certificate, and becoming chargeable as aforesaid, shall be removed back to the city or town to which such person shall belong, the overseers of the poor, shall be reimbursed such reasonable charges as he or they may have been put unto, in maintaining and removing such person, by the overseers of the poor of the city or town to which such person is, or shall be removed, the said charges having been first ascertained and allowed by two or more of the justices of the peace of the city, or of the county in which such town from which such removal shall be made, shall be. Which said charges, so ascertained and allowed, shall, in case of refusal of payment, be levied by distress and sale of the goods and chattels of the overseers of the poor of the city or town to which such certificated person shall be removed as aforesaid, by warrant, under the hands and seals of any two justices of the peace of the city or county where the overseers of the poor shall reside (who are hereby authorized and required to issue the same, directed to some constable of such city or town, returning the overplus, if any there be, after deducting all lawful costs and charges of such sale —

Charges incurred in support of person having legal settlement in another town, recovery of.

And be it further enacted That if any poor person shall remove or come out of any city or town where he is or shall be legally settled, into any other city or town within this State, and shall be taken sick or lame, so that such person cannot be conveniently removed back to the place of his last legal settlement, then the overseers of the poor of such city or town into which such poor person shall come as aforesaid, or one of them, shall give notice in writing, to the overseers of the poor of the city or town out of which such poor person shall have come as aforesaid, of the name, condition and circumstances of such poor person, and request such overseers of the poor, or one of them, to take care of, relieve and maintain such sick or lame person during his illness, and also to provide for his funeral, if he should die there; and if any such overseer of the poor, having notice as aforesaid, shall neglect or refuse so to do, then, it shall be lawful for any two justices of the peace of the city, or of the county in which such town shall be, where such poor person had his last legal place of settlement, upon complaint made to them, to cause all such sums of money as shall be necessarily expended in the maintenance of such poor person, in his sickness or lameness, or on his funeral, to be levied by distress and sale of the goods and chattels of the said overseer of the poor, so neglecting or refusing to take care of and

provide for such poor person as aforesaid, after such notice given to him or them as aforesaid by warrant under the hands and seals of such justices (who are hereby authorised and required to issue the same) directed to some constable of the city or town where such overseer of the poor shall reside, returning the overplus, if any there be, after deducting all lawful costs and charges of such sale as aforesaid; and such sums of money, so recovered, shall be paid to the overseers of the poor or to one of them, of such city or town where such poor person shall be sick, lame, or die as aforesaid—

And be it further enacted, That every person who shall think himself aggrieved, by any judgment or order of any justice or justices of the peace, or by warrant of removal of any poor person, may appeal to the next general sessions of the peace, to be holden in and for such city, or in and for the county, in which such city or town shall be, where such judgment or order shall be made, or from which such poor person shall be removed as aforesaid, who are hereby authorized and required to hear and determine such appeals, and to do justice therein, according to the merits of the respective cases; *and further* that no justice of the peace, who shall reside in any city or town, where any dispute shall happen (except in the city and county of New York) shall sit in court upon such appeal—

Appeals
from
orders of
justices of
the peace.

And be it further enacted, That on every appeal to be made to the court of general sessions of the peace, to be holden in and for the city and county of New York, the justices who shall determine such appeal, shall, upon request, state the case specially and at large, that every person who shall think himself aggrieved by the determination on such appeal, may have remedy thereupon, in the supreme court—

Id., in New
York city.

And be it further enacted, That no appeal from any judgment or order whatsoever of any justice or justices of the peace, or from any order of removal of any poor person, whatsoever, from one city or town to another, shall be proceeded upon, in any court of general sessions of the peace, unless reasonable notice in writing be given by the overseers of the poor, of the city or town, or the person who shall make such appeal, unto the overseers of the poor, or one of them, of such city or town as shall be affected by such judgment or order or from which such poor person shall be removed; the reasonableness of which notice to be determined by the justices of such general sessions of the peace, to which the appeal is made; and if it shall appear to them that reasonable notice was not given, then they shall adjourn such appeal to the next general sessions of the peace, and then and there finally hear and determine the same.

Notice of
appeal.

And be it further enacted, That if the justices shall, at their general sessions of the peace, to be holden in and for any city or county within this State, upon any appeal before them, concerning the settlement of any poor person, determine in favour of the appellant, that such poor person was unduly removed, then the said justices shall at the same general sessions, award, to such appellant so much money (besides his costs & charges) as shall appear to the said justices to have been reasonably paid and expended by the overseers of the poor of the city or town on whose behalf such appeal was made, for or towards the relief of such poor person between the time of such undue removal, and the determination of such appeal. *And further* that upon every appeal upon any judgment or order of any justice or justices, concerning the settlement of any poor person, or upon any proof of notice of any such appeal to have been given, by the overseers of the poor of one city or town, or by any other person, to the overseers of the poor of any other

Awards on
appeal.

city or town, or to any other person though such person did not afterwards prosecute such appeal, the justices, at the same general sessions of the peace, shall award to the party in whose favor such appeal shall be determined, or to whom such notice did appear to have been given as aforesaid, such costs & charges, as by the said justices, in their discretion, shall be thought reasonable, to be paid by the overseers of the poor of the city or town, or other person against whom such appeal shall be determined, or who gave notice of such appeal as aforesaid, and did not prosecute the same. *And further* if in any of the cases aforesaid the person ordered to pay such monies and costs, and charges shall reside in any city or county out of the jurisdiction of such court of general sessions of the peace, it shall be lawful for the overseers of the poor, to whom such monies were directed to be paid, to sue for and recover the same of the person against whom such award was made, with costs of suit, in an action for monies had and received to the plaintiffs use, in any court in this State having cognizance thereof. In which action a true copy of the award of such justices in their court of general sessions of the peace, signed by the clerk and sealed with the seal of the same court, when produced shall be sufficient evidence for the recovery of such monies, so awarded.—

Liability
for support
of relatives

And be it further enacted, That the father and grandfather mother and grandmother (being of sufficient ability) of any poor, blind, lame or decrepid person whomsoever not being able to maintain himself, and becoming chargeable to any city or town within this State, and the children and grand children (being of sufficient ability) of every poor, old, blind, lame or impotent person, not being able to maintain himself, and becoming chargeable as aforesaid, shall respectively, at their own charge and expence, relieve and maintain every such poor person in such manner as the justices of the peace of the city or county where such sufficient person shall dwell, at their general sessions of the peace, shall order and direct, on pain of forfeiting and paying one dollar and twenty five cents for each person so ordered to be relieved, for every week such order shall not be obeyed, to be sued for and recovered with costs of suit by the overseers of the poor of the city or town to which such poor person shall be chargeable, for the use of the poor of such city or town, in the manner herein before directed with respect to costs and charges upon an appeal—

Absoond-
ing of hus-
bands and
parents.

And be it further enacted, That it shall be lawful for the overseers of the poor of any city or town within this State, where any father or husband shall run away or absent himself from his wife or children, or where any widow shall run away or absent herself from her child or children, and leave any of them, a charge to such city or town, to apply to any two justices of the peace of the city or county, where such estate, real or personal, or any part thereof may be, and by warrant under the hands and seals of the said two justices, who are hereby authorized and required to issue the same, to take and seize the goods and chattels, and to let out and receive the annual rents and profits of the lands and tenements of such father, husband or mother, so absconding as aforesaid for and towards the maintaining, bringing up and providing for such wife, child or children so left as aforesaid; and as soon as the said seizure shall be allowed of and confirmed by the justices in their general sessions of the peace, it shall be lawful for the said overseers of the poor, or any two of them, as often as the case may require, to sell and dispose of so much of the said goods and chattels at public vendue, to the highest bidder, and to receive the said rents and profits, or so much thereof as shall be ordered by the said sessions, and to apply the money

arising therefrom towards the maintenance of such poor family, or person so left as aforesaid, *and further* that the said overseers of the poor shall be accountable to the justices of the peace in their said general sessions, for all such monies as shall arise from any such sale, and from the rents and profits of such lands and tenements —

And be it further enacted, That the majority of the freeholders and inhabitants who shall be assembled at the annual town meetings in each town in this State shall determine and agree upon such sum of money as they may think proper for the purpose of maintaining the poor, in such town in the ensuing year, of which each town clerk shall make full and proper entries in the town book by him to be kept, and shall as soon as conveniently may be, deliver a true copy of such entry, certified under his hand, to the supervisor of said town, and the said supervisor is hereby required to lay the same before the supervisors of the county, at their then next meeting, in order that the said sum may be raised in such town for the support and maintenance of the poor thereof —

Town poor taxes.

And be it further enacted That that it shall be lawful for the mayor, aldermen and commonalty of the cities of Albany and Hudson, respectively in common council convened, yearly to determine and agree upon such sum of money as they may respectively think proper for the purpose of maintaining and supporting the poor in the said cities respectively, in the ensuing year, of which sums the town clerk shall make a like entry as aforesaid in the minutes of the said common council and deliver a certified copy as aforesaid to the supervisor of such city, who is hereby required to lay the same before the supervisors of the county at their next meeting for the purpose aforesaid —

Poor tax in Albany and Hudson.

And be it further enacted, That when any poor person belonging to any city or town within this State, shall apply for relief to any overseer of the poor of such city or town, the said overseer of the poor shall make application to a justice of the peace of such city, or of the county in which such town shall be, which said justice and overseer of the poor, shall enquire into the state and circumstances of the person so applying as aforesaid; and if it shall appear to the said justice and overseer of the poor, that such person is in such indigent circumstances as to require relief, then the said justice shall give an order in writing, to the said overseer of the poor, to make such allowance weekly or otherwise, to every such poor person as they in their discretion shall think the necessities of such poor person shall require, and the overseers of the poor, shall make no other or further allowance to such poor person than what by the said order shall be directed; which said order shall be a sufficient voucher for the payment of so much money by the said overseers of the poor, and shall be allowed in adjusting their accounts —

Applications for relief.

And be it further enacted, That the overseers of the poor of each city or town within this State shall procure at the public charge, a book, wherein the names of all poor persons applying for relief, and being ordered to be relieved as aforesaid, shall be registered, with the day and year when they were first admitted to have relief, the weekly or other sum or sums of money allowed by the order for their relief, and the cause of such necessity; and that no person shall be entered in the poor books, or receive relief from the overseers of the poor, or any of them, without such order. And in case any overseer of the poor shall enter in the poor books and relieve any poor person without such order, he shall forfeit and lose all such money and goods paid and distributed to such poor person, nor shall any allowance be made to him for the same, in passing his account, and the said overseers of the poor are

Books to be kept by overseers of the poor.

hereby directed and required to enter in the said poor books, all monies received, laid out and disbursed by them for the use of the poor, and also all matters which shall be transacted by them relating to their said office. And the overseers of the poor for the cities of Albany and Hudson, shall yearly lay such books of account before the common councils of the said cities respectively at such times as the said respective common councils shall direct, and the overseers of the poor of every town shall yearly on the last Tuesday in March, lay their said books of account before the town clerk and supervisor of such town, and such justice or justices of the peace as may reside in such town, or the major part of them, for their examination, who shall examine and audit the same, and make report thereof to the freeholders and inhabitants of their respective towns, at their next annual town meeting, that such further provision for the maintenance and support of the poor, may be made as may be found necessary—

Poor-
houses.

And be it further enacted, That it shall be lawful for the overseers of the poor of the cities of Albany and Hudson, by and with the consent of the common council of the same cities respectively, and for the overseers of the poor of any town within this State, and any two or more justices of the peace of the county in which such town shall be with the consent of the major part of the freeholders and inhabitants of such town to be signified at such annual town meeting, and at the proper charge of such city or town, to be ascertained, assessed and levied as aforesaid, to build purchase or hire some fit and convenient dwelling house or houses in such city or town, for the lodging and accommodation of the poor thereof. And also to purchase necessary materials for setting such poor persons to work, and there to maintain and employ every such poor person, and to take the benefit of the labor and services of any such poor person, for the better maintenance and relief of such poor persons, who shall be there kept and maintained, and to appoint such keepers thereof from time to time, as they shall think proper. And in case any poor person, claiming relief of any city or town within this State, where such house or houses shall be so built purchased or hired, shall refuse to be lodged, kept to work, and maintained therein, such poor person, shall be put out of the book in which the names of the poor are by this act directed to be registered, and shall not be entitled to receive any relief from the overseers of the poor of any such city or town.

Where two
or more
towns join
in main-
taining
poor-house

And further, that where any town may be too small to build, purchase or hire such house or houses, it shall be lawful for the overseers of the poor and justices of the peace, with the consent of the major part of the freeholders and inhabitants of two or more towns within any county in this State, to be signified at their annual town meetings, to unite in building, purchasing or hiring such house or houses, for the keeping and maintaining of the poor in such towns. And also to purchase necessary materials for setting such poor persons to work, and there to maintain and employ every such poor person, and to take the benefit of the labor, and services of such poor person, for the better maintenance and relief of the poor therein. And to appoint such keepers thereof from time to time, as they shall think proper; and in case any poor person, claiming relief of any of the towns so uniting shall refuse to be lodged, kept to work and maintained as aforesaid, such poor person shall be put out of the book in which the names of the poor are, by this act, directed to be registered, and shall not be entitled to receive any relief from the overseers of the poor of any such town. *And further,* that it shall be lawful for the overseers of the poor and justices of any town within this State with the consent of the major part of the

are of
poor in
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freeholders and inhabitants of such town, where such house or houses shall be built, purchased or hired for the purposes aforesaid, to be signified at such annual town meeting, to contract with the overseers of the poor and justices of any other town, for the lodging, maintaining and employing of any poor person belonging to such other town, as to them shall seem meet. And in case any such poor person belonging to any other town, shall refuse to be lodged, maintained and employed in any house so contracted for as aforesaid, such poor person, shall be put out of the book in which the names of the poor are by this act, directed to be registered as aforesaid, and shall not be entitled to ask or receive any relief from the overseers of the poor of any such town —

houses of
other
towns.

And be it further enacted That the overseers of the poor of each city and town in this State, shall, annually within fifteen days after the termination of their respective offices, exhibit to the succeeding overseers of the poor of such city or town, a just and true account, of all the monies by them respectively received and expended for the use of the poor, and in what manner, together with an account of the earnings of the poor persons by them employed; which accounts the said overseers of the poor together with the supervisor of such city or town, and justices of the peace residing in such city and town, or the major part of them, shall, as soon as conveniently may be, examine and audit; and the said overseers of the poor so going out of office, shall respectively, on auditing such account pay all the balance which shall appear to be in their hands to their successors in office. And the overseers of the poor so going out of office, shall at the time of exhibiting their accounts, deliver to their successors in office, all books of accounts, registers and other papers relating to the poor as aforesaid; and if any overseer of the poor shall refuse or neglect to exhibit such account, and to pay to his successors in office such monies as shall remain in his hands as aforesaid, or to deliver up all such books of accounts, registers, and other papers as aforesaid he shall forfeit and pay the sum of two hundred and fifty dollars over and above the said balance remaining in his hands; to be recovered with costs of suit in any court of record within this State by the overseers of the poor of such city or town, and when recovered to be applied to the use of the poor of such city or town; and if upon auditing such account there shall appear to be a ballance due to such overseers of the poor, so going out of office, or to either of them, the same shall be paid to him or them by their successors in office, out of the first monies which shall come into their hands as overseers of the poor of such city or town —

Annual
accounts
to be ren-
dered by
overseers.

And be it further enacted, That it shall be lawful for the overseers of the poor, of each city and town, to recover against their predecessors in office, and each of them, their executors or administrators all such sums of money as shall appear upon such audit as aforesaid to be due from them respectively, to such city or town, in an action for money had and received to the use of such city or town, with costs of suit, in any court having cognizance thereof, or to have actions of account against any former overseer of the poor of such city or town, his executors or administrators; and no such action shall be abated or discontinued by the death or expiration of the office of any such plaintiffs, but shall be continued and prosecuted to effect, by the survivor or survivors of them, and their successors in office, and such suit shall always be brought and prosecuted by and in the name of the overseers of the poor of such city or town for the time being —

Recovery
of balances
from pre-
decessors.

And be it further enacted, That every master of any ship or other vessel arriving from a foreign country or from any other of the United

Report of
passengers
by masters
of vessels.

States, who shall enter his vessel at the custom house in the city of New York, shall, within twenty four hours after such entry, make a report in writing on oath to the mayor, or in case of his sickness or absence, to the recorded* of the said city of the name, age and occupation of every person, who shall have been brought as a passenger in such ship or vessel on her last voyage, upon pain of forfeiting for every neglect or omission to make such report, the sum of seventy five dollars for every alien and the sum of fifty dollars for every other person neglected to be so reported as aforesaid —

Bonds to be given by masters of vessels.

And be it further enacted, That it shall be lawful for the said mayor, or in case of his sickness or absence, for the said recorder to require every such master of such ship or vessel, to be bound with two sufficient sureties to the mayor, aldermen and commonalty of the said city in such sum, as the said mayor or recorder may think proper, not exceeding three hundred dollars for each passenger, to indemnify, and save harmless the said mayor, aldermen and commonalty, and the overseers of the poor of the said city, and their successors, from all and every expence and charge which shall or may be incurred for the maintenance and support of any such person so imported, in case such person shall at any time, within two years thereafter become chargeable to the said city; and if any such person so brought as aforesaid, and not being a citizen of the United States, shall be permitted or suffered to land within the said city from any such ship or vessel until such bond shall have been given, and without a permission in writing from the said mayor or recorder, the master or commander of such ship or vessel shall be subject to the penalty of five hundred dollars, for every person so suffered or permitted to land as aforesaid.

Landing of passengers within fifty miles of New York city.

And be it further enacted, That if any person who may have been a passenger in any such ship or vessel, and not being a citizen of the United States, shall be suffered to land from such ship or vessel at any place within the distance of fifty miles from the said city, with intent to proceed to the said city, otherwise than in the said ship or vessel, the master or commander thereof shall be liable to the like penalty of five hundred dollars for every such person so suffered or permitted to land —

Person entertaining aliens to report to mayor.

And be it further enacted, That if any householder in the said city shall knowingly entertain in his house or family any alien so landed as aforesaid, and shall not report such alien to the said mayor, or in case of his absence or sickness, to the said recorder, within twenty four hours after such entertainment commenced, he shall forfeit and pay the sum of fifty dollars for every such alien so entertained —

Penalties in New York city.

And be it further enacted, That all and singular the said penalties and forfeitures, arising in the said city, shall and may be sued for, and recovered with full costs of suit, by action of debt, in the supreme court of this State, in the name of the said mayor, aldermen and commonalty, and when recovered by them, shall be applied towards the support of the poor of the said city, and the defendant in every such suit shall be held to special bail, and the said supreme court, shall direct the trial thereof by a jury of any county that may be judged proper; and upon every such trial for any penalty or forfeiture supposed to be incurred by the landing of any such person as aforesaid within the said city, the same landing shall be presumed, unless the defendant shall prove that the said person, was taken or sent to some foreign country without having been suffered to land as aforesaid —

And be it further enacted, That it shall be lawful for the said mayor, aldermen and commonalty to compound for the said penalties and forfeitures, or any of them, either before or after suing for the same, upon such terms as the circumstances of the defendant, or of the case may in their judgment require—

Compounding for penalties.

XXXVI. *And be it further enacted,* That every ship or vessel from which such alien shall have been so landed without permission from the said mayor, or recorder in writing, shall be liable for the said penalties, and may be proceeded against by information in the said supreme court and by attachment and seizure grounded thereon, unless the owners thereof shall give bond, with sufficient sureties, to the sheriff serving such attachment, for the payment of the said penalties, and every of them, which may have been incurred during or since the last voyage of the said ship or vessel, or for paying the value of such ship or vessel towards the satisfaction of such penalties as may have been so incurred by suffering any alien to land as aforesaid, and such value shall be ascertained by the wardens of the port of New York, or any two of them, and such bonds shall be assignable as bail bonds are by law and be subject to such orders respecting the same as the said supreme court may judge it proper to make—

Ships liable to attachment for penalties.

And be it further enacted, That whenever any person so brought in any such ship or vessel, and being a citizen of the said United States shall, by the said mayor or recorder be demed likely to become chargeable to the said city, the master of such ship or vessel, shall upon an order for that purpose, remove the said person without delay to the place of his last settlement; and in default thereof, shall be bound to pay all such charges and expences as the said city shall or may sustain or be put unto, in and about the maintenance and removal of such person, to be sued for and recovered in like manner as the several penalties herein before mentioned are directed to be sued for and recovered—

Master may be compelled to remove persons to place of last legal settlement

And be it further enacted, That it shall be lawful for the mayor, aldermen and commonalty of the city of New York, in common council convened, to nominate and appoint, under the common seal of the said city, not more than five of the freeholders and inhabitants of the said city, to be overseers of the poor thereof, by the name and style of, The commissioners of the alms house and bridewell of the city of New York; which said persons being so appointed, or the major part of them, shall have the same power and authority of overseeing and providing for the poor of the said city, and they, or any two of them, shall have the same power and authority for putting or binding out apprentices and servants in the said city, and be subject to the same duties and penalties, which the overseers of the respective towns in this State have or are subject to by this act.

Commissioners of the alms-house and bridewell, New York city.

And be it further enacted, That all monies to be raised and collected in the said city for the maintenance and support of the poor, and all fines and forfeitures to be incurred in the said city by virtue of this act, and which by this act are made payable to the overseers of the poor for the use of the poor of the said city, shall be paid into the hands of the chamberlain of the said city, and shall be applied and disposed of in such proportions, and from time to time, as the mayor, aldermen and commonalty of the same city, in common council convened, by warrant under the hand of the mayor or recorder of the said city, presiding in such common council, shall direct and appoint—

Application of poor monies in New York city.

And be it further enacted, That it shall be lawful for the common council of the said city to remove from office any person, so by them to be appointed at their pleasure, and also, in manner aforesaid, from time to

Removal from office; vacancies.

time, to fill all vacancies which shall be occasioned by such removal, or by death or resignation; and also from time to time to appoint such other officers as they may deem proper for the government of the said alms house and bridewell, and to make and ordain such ordinances and regulations as they shall think necessary for the better government of the said alms house and bridewell, and the keepers, officers and servants thereof. *Provided* such ordinances and regulations be not contrary to the laws and constitution of this State or of the United States.

And be it further enacted, That in all cases where any of the present poor in any county of this State are maintained by the whole county, or by more than one town, such poor persons shall continue to be so maintained.

Poor persons maintained by county or two or more towns.

CHAP. 185.

AN ACT relative to the office and duties of the comptroller of this State.

PASSED the 8th of April, 1801.

Office of the comptroller; where kept; duties.

Be it enacted, by the People of the State of New York, represented in Senate and Assembly, That the office of comptroller of this State shall continue until the twenty eighth day of February in the year of our Lord one thousand eight hundred and three and shall be kept in the city of Albany or in that part of the town of Watervliet lying between the north bounds of the said city and the creek commonly called the Fifth creek and not more than one mile from Hudson's river; and it shall be the duty of the comptroller, to state all accounts between this State and the United States, and to examine and liquidate the claims of all persons against this State in cases in which provision shall have been made by law, and in cases where no such provision shall have been made, or where he cannot liquidate any claim without further legislative provision, he shall examine and report the same and the facts concerning it, to the legislature with his opinion thereon; and to examine, adjust and settle the accounts of all persons indebted to this State, and certify the amount or balance to the treasurer; and to draw warrants on the treasurer for the payment of the salaries and wages of all the legislative, executive, judicial and ministerial officers of the government of this State, and also for the payment of all monies by law directed to be paid to any other person, which warrants shall be paid by the treasurer; and to keep an account between this State and the treasurer, and therein charge him with the balance in the treasury, and with all monies received by him, and credit him with all warrants drawn on him as aforesaid; and to exhibit to the legislature annually at their first meeting after the first day of January a complete statement of the funds of the State, and of the annual revenue thereof; and of the amount of the salaries of the officers of government, and other contingent expences, and other appropriations paid in the preceding year, distinguishing which are permanent or temporary and to suggest any improvements that may be made in the premises; and to loan upon good landed security in this State, all monies which may at any time be in the treasury not otherwise appropriated, or necessary to be retained for the support of the government, not exceeding one thousand dollars to any one person taking a bond and mortgage in the name of the people of this State, to secure the repayment thereof, with interest at the rate of six per cent per annum, the interest to be paid annually, and the principal at the end of ten years;

and the mortgage to contain a covenant that the mortgaged premises are free from all incumbrances whatsoever, and the bond to be conditioned as well for the performance of the covenants contained in the mortgage, as for the payment of the money loaned with the interest and the premises mortgaged shall always exceed in value the amount of the sum so loaned; and no money shall be advanced to any borrower until such bond and mortgage shall be duly executed, and the mortgage duly acknowledged or proved and registered according to law, in the office of the clerk of the county in which the mortgaged premises shall be situated, and be delivered to the comptroller, and such certificates as he shall think necessary, to shew that the mortgaged premises are free from all other incumbrances, and then the comptroller shall give the borrower a warrant on the treasurer for the money so to be loaned.

And be it further enacted, That it shall be lawful for any person indebted by mortgage to the people of this State or to any other person (except loan officers) in trust for the said people, at any time to pay to the treasurer the whole sum due on such mortgage for principal and interest or any part thereof, and the comptroller is hereby directed to loan the principal sum or any part thereof so paid in the manner and on the terms above directed for such time as remained unexpired for the for the payment thereof by such mortgage; and upon payment of the whole sum due on any such mortgage to give a certificate thereof, which being duly proved or acknowledged as in other cases of proving or acknowledging the payment of mortgages, and minuted on the margin of the registry of such mortgage shall operate as a discharge of such registry.—

Payments
on mort-
gages.

And be it further enacted, That if any person indebted to this State by mortgage, shall sell any part of the mortgaged premises, it shall be lawful for the comptroller at his discretion, in case he shall be satisfied that the premises so sold, have been sold for a fair consideration, and that the residue of the mortgaged premises exclusive of the buildings thereon are sufficient to secure the monies remaining due on any such mortgage, upon payment of the purchase money to the treasurer of this State, to join in the conveyance to the purchaser, and thereby to release to him and his heirs the right of the people of this State, by virtue of such mortgage, to the premises so sold, which shall be a sufficient discharge of such mortgage, as to the premises so released; but no such payment or release shall operate to discharge the mortgagor, or the residue of the mortgaged premises from the payment of the residue of the money then due and to become due on such mortgage, and the comptroller shall loan all such monies so paid upon any such mortgage in the manner herein before directed.

Releases
by comp-
troller.

And be it further enacted, That the comptroller of this State shall be and is hereby authorised and required to vote for directors in the Bank of the United States, in the Bank of New York, in the Bank of Albany and in the Inland Lock Navigation Companies respectively either in person or by proxy on behalf of this State.—

Voting on
State stock
in corpora-
tions.

And be it further enacted, That no monies shall be paid out of the treasury of this State except on the order of the comptroller, and that all receipts for money hereafter to be paid to the treasurer shall be taken to the comptroller who shall countersign the same, and enter them in the proper book or books for that purpose in his office to the credit of the person for whom such payment shall be made and no receipt unless so countersigned shall be good evidence of such payment.—

Payments
from treas-
urer to be
on comp-
troller's
warrant.

And be it further enacted, That all deeds and conveyances, other than mortgages, belonging to the people of this State, shall be deposited

Where
deeds,
mortgages,

books, etc.,
deposited.

in the office of the secretary of this State, and that all mortgages, bonds, obligations and assurances for money, given to the people of this State or transferred to them by Gerard Bancker the late treasurer, or hereafter to be given to the said people, and all mortgages, leases and bonds in the hands of the surveyor general and belonging to the said people or which may hereafter be taken by him in behalf of the said people, and all the books in the treasury containing the accounts of the auctioneers or vendue masters in the city of New York or copies of such of their accounts as remain unsettled, and all the books containing checks of certificates issued by the treasurer or by any other person for or on account of this State shall be deposited and kept in the office of the comptroller; and all monies which shall from time to time become due to the people of this State on any of the said mortgages, bonds, obligations or assurances, and also all monies which shall become due from the loan officers of the respective counties and which shall be certified to be so due by the comptroller shall be paid to the treasurer of this State.

Certificates
of stock.

And be it further enacted, That the certificates for the three per cent stock and for the shares in the Bank of the United States and the Bank of Albany shall continue to be deposited in the Bank of New York; and the certificates for the shares in the Bank of New York and in the Inland Lock Navigation Companies shall continue to be deposited in the Bank of Albany.—

Interest
on stock.

And be it further enacted, That the president, directors and company of the Bank of New York be and they are hereby authorized to receive the interest which shall from time to time become due on the three per cent stock, and the dividends which shall from time to time be made on the shares belonging to the people of this State in the Bank of the United States, and the monies so received shall be credited to the people of this State and be paid to the treasurer on the order of the comptroller.

Dividends
on State
stock in
corporations.

And be it further enacted, That the treasurer of this State shall on the order of the comptroller receive the dividends which shall from time to time be made on the shares belonging to the people of this State in the Bank of New York, in the Bank of Albany and in the Inland Lock Navigation Companies respectively, and shall also on the like order of the comptroller pay to the president, directors and company of the said banks respectively out of any monies in the treasury such sums as shall from time to time be certified by the comptroller to be due to them respectively for the interest of the money loaned by them to the people of this State.

Defense of
Connecticut
claims.

And be it further enacted, That the treasurer shall pay to the order of the person administering the government of this State on the warrant of the comptroller such sums of money as the person administering the government of this State shall from time to time require for defraying the charges and expences which have arisen or may arise in and about the defence of the rights of this State against the claim made under the State of Connecticut.

Fortifica-
tion ex-
penses.

And be it further enacted, That the comptroller shall be and is hereby required as soon as conveniently may be to collect and liquidate the expences incurred by the fortifications in this State for the defence of the United States, and shall also liquidate with the secretary of the treasury of the United States the specie value of the funded debt of the United States assumed by the said states of the debt of this State on the principles contained in the act of Congress passed the fifteenth day of February in the year one thousand seven hundred and ninety nine,

relative to the balances reported by the commissioners for settling the accounts between the United States and the several States.

And be it further enacted That the comptroller is hereby directed and required to lease from year to year until other provision be made in the premises the house belonging to the people of this State called the government house in the city of New York with its appurtenances, upon the best terms he can get for the same.—

Government house
in New York.

And be it further enacted, That it shall be the duty of the comptroller to attend the legislature during their sessions, and all petitions and applications to the legislature for pecuniary compensation, when referred to the comptroller to make order, shall be by concurrent resolution and when referred to him to report thereon, shall be by order of the house in which such petition shall be preferred.—

Attendance on
legislature.

And be it further enacted, That it shall be the duty of the comptroller to call on all persons intrusted with, or who shall have received any monies belonging to this State and not accounted for the same, to settle their accounts, and he is hereby authorized to issue a notification to every such person, or in case of his death to his heirs, devisees, executors or administrators, requiring him or them to render to the comptroller, at such time as he shall think reasonable, not less than sixty nor more than ninety days from the date of the said notification, all his accounts and vouchers for the expenditure of the said monies; and in default thereof, suits at the discretion of the comptroller shall be commenced for the same without further notice; and the party sued as aforesaid, unless sued as heirs, devisee, executor or administrator shall be subject to the costs and charges of such suits, whether the ultimate decision shall be against him or in his favor.

Accounts
with persons
indebted to
the State.

And be it further enacted, That the said notification shall be in the name of the people of this State and shall be served by the sheriff of the county where the person to be notified shall reside, or his deputy, by delivering a copy thereof to the person to be notified, or by leaving such copy at his dwelling house or usual place of abode, at least forty days before the time fixed in such notification for rendering such account as aforesaid, and the return of such notification to the comptroller's office, with the certificate of the sheriff indorsed thereon, that such service has been made by delivering a copy of such notification to the person so notified, shall be legal evidence of such proceedings and shall be sufficient for the recovery of costs and charges; *provided nevertheless*, that in all cases where such return shall be made of the service of such notice, and the person so notified shall within the time mentioned in such notification produce to the comptroller his accounts and vouchers as aforesaid, such person shall not be subject to costs and charges, unless it shall be found that he is indebted to the people of this State.—

How notification
served.

And be it further enacted, That in all cases where accounts shall be rendered to the comptroller within the time limited in such notification, or without any such notification being issued, the comptroller, shall immediately proceed to examine such accounts and vouchers, and if the same are proper and sufficient in his opinion, he shall thereupon liquidate and settle the same accounts; but if any of the necessary vouchers are wanting or insufficient in his opinion, he shall give notice thereof to the party, and require him to supply such defect within a reasonable time, not less than sixty nor more than ninety days, after the expiration of which the comptroller shall liquidate and settle such accounts upon the vouchers and proofs which shall have been delivered to him; and when the comptroller shall have settled any account he shall deliver or

Examination
and
settlement
of accounts

transmit a copy of such settlement to the party, and if any balance shall be thereby certified to be due to the State, and the same shall not be paid to the treasurer within ninety days thereafter, the comptroller shall deliver the account thereof to the attorney general who shall cause the same to be prosecuted and recovered, and in all such cases, a copy of such settlement certified by the comptroller, shall be deemed good and sufficient evidence to support such action but it shall be lawful for the defendant in any such action to plead and give in evidence all such matters as shall be legal and proper for his defence or discharge, and if any such defendant shall upon the trial in any such action, give any evidence other than such as was produced to the comptroller, then and in every such case the defendant shall be subject to the costs and charges of such suit, whether the ultimate decision shall be against him or in his favour.—

Where persons jointly indebted.

And be it further enacted, That in all cases where any number of commissioners or other persons, shall have received any monies for which they are accountable to this State, it shall be lawful for the comptroller at his discretion to liquidate and settle the accounts of any one or more of them separately, and in such case no such person shall be allowed to plead in abatement to any suit to be brought for any balance which shall be certified to be due from him or them, or to give in evidence upon the the* trial thereof, that any other person was concerned with him or them in the receipt or expenditure of the said money.—

Where person fails to settle after notice given.

And be it further enacted, That in case any person who shall be notified as aforesaid, to render his account and vouchers, shall not so do within the time limited in such notification, then and in every such case if the comptroller can ascertain the amount thereof, he shall state an account thereof and compute and add thereto the interest thereof at the rate of six per cent, per annum, from the time the same was received, to the time fixed in such notification for rendering the account thereof, and transmit a copy of such account to the attorney general to be prosecuted and recovered as aforesaid, and in all such cases a copy of such account certified by the comptroller; shall be deemed good and sufficient evidence to support such action, and the defendant shall be subject to the costs and charges of such suit, whether the final decision shall be against him or in his favour, except in suits against heirs, devisees, executors or administrators; but that it shall be lawful for the defendant in any such action, to plead and give in evidence all such matters, as shall be legal and proper for his defence or discharge.

Declaration in actions.

And be it further enacted That in all such suits it shall be sufficient to state in the declaration that the defendant, or if the suit be against heirs, devisees executors or administrators, the ancestor, testator or intestate on the day of the settlement of such account by the comptroller, and at a certain place, was indebted to the people of the State of New York, in the sum therein stated to be due, specifying the same, for so much money before that time by him received, to their use, and so thereof being indebted, he the defendant or the ancestor, testator or intestate in consideration thereof afterwards, the same day and year and at the place aforesaid, promised to pay the same to the people of the State of New York, and to charge the breach of such promise in common form, and to give the special matter in evidence.—

When comptroller may borrow

And be it further enacted That if at any time there shall be legal demands on this State, by law directed to be paid, which there shall not be sufficient money in the treasury to satisfy, then and in every such

* So in original.

case it shall be lawful for the comptroller, in the name and on behalf of the people of this State, to borrow a sum sufficient for that purpose of the Bank of New York or Albany, at the usual discount, and to draw a warrant for the same, in favor of the treasurer, and charge him with the amount thereof; but shall take care to draw a warrant on the treasurer for the repayment thereof, as soon as there shall be money sufficient for that purpose in the treasury.

money of
banks of
New York
or Albany.

And be it further enacted, That nothing in this act shall be construed to take away, or impair any legal remedy which might be used if this act was not in force, for the recovery of any debt or debts now due or hereafter to become due to this State either in law or equity, from any person or persons whomsoever, nor to apply to any accounts or transactions that existed between the people of this State and any individuals previous to the first day of January in the year one thousand seven hundred and eighty eight.

Legal
remedies
not af-
fected.

And be it further enacted That the comptroller shall be allowed as a compensation for his services and expences, including clerk hire, office hire and stationary, a salary of two thousand five hundred dollars a year, payable quarter yearly, and it shall be lawful for him to draw warrants on the treasurer for the payment thereof, as the same shall become due.

Allowance
to comp-
troller.

CHAP. 186.

AN ACT to regulate highways.

PASSED the 8th of April, 1801.

I. Be it enacted, by the People of the State of New York represented in Senate and Assembly, That it shall be the duty of the commissioners of highways in the several towns of this State, except in the city & county of New York, the counties of Suffolk, Queens Kings and Richmond to give directions relative to the repairing of the roads and bridges, within the towns for which they are respectively appointed; to regulate the roads already laid out, and to alter such as they or a majority of them shall conceive inconvenient; to cause such of the roads as are not already described and recorded, to be ascertained, described and entered of record in the town clerks office; to cause to be kept in repair the highways and bridges erected, or which may be erected over streams intersecting highways; to require the overseers from time to time, and as often as they shall deem necessary, to warn the people assessed to work highways, to come and work thereon, with such implements carriages, cattle and sleds, as the said commissioners, or any one of them shall direct; and shall have full power and lawful authority to lay out such new roads in the several towns as they may deem necessary and proper; And that all such roads so to be laid out, shall be done on actual survey.

Duty of
commis-
sioners of
highways.

And be it further enacted, That whenever any person shall conceive himself aggrieved by the determination of the said commissioners either in laying out or altering any such road, it shall be lawful for such person to appeal to any three of the judges of the court of common pleas for the county in which such roads is situated, whose duty it shall be to convene and decide such appeal, and their decision or that of any two of them, shall be conclusive in the premises; for which services every such judge shall be entitled to receive two dollars for every day

Appeals
from deter-
minations
of commis-
sioners.

employed therein, to be paid by such party appealing where the determination of the commissioners shall be affirmed, but where such determination shall be reversed, the same shall be collected and paid as part of the contingent charges of the county.

Road districts.

II. *And be it further enacted*, That the commissioners of the respective towns, or the major part of them shall annually, at least ten days before the annual town meeting, if they shall judge the same necessary by writing under their hands, to be lodged with the town clerk, and by him to be entered in the town book, divide their respective towns into as many road districts as they shall judge convenient.

Roads extending into two towns.

III. *And be it further enacted*, That when the commissioners of any town shall disagree with the commissioners of any other town in the same county relating to the laying out of a new road, or the alteration of an old road extending into both towns; or when the commissioners of a town in one county shall disagree with the commissioners of a town in another county relative to laying out a new road or altering an old road which shall extend into both counties, the commissioners of both towns shall meet together at the request of either disagreeing commissioners, and make their determination upon such subject of disagreement.—

Overseers, duty of.

IV. *And be it further enacted*, That it shall be the duty of the overseers of highways, to repair and keep in order the highways, within the several districts for which they shall be elected, to warn all persons assessed to work on the highways in their respective districts to come and work when required so to do by the commissioners or any one of them; to collect all fines and commutation money, and to execute all such orders of the commissioners of the town to which they belong, as shall be given by them in conformity to law; and if any overseer shall be employed more days in executing the several duties enjoined on him by this act, than he is assessed to work on the highways, he shall be paid for the excess at the rate of one dollar per day, and be allowed to retain the same out of the monies which may come into his hands, for fines in conformity to this act, but shall not be permitted to commute for the days he is assessed.

Who liable to assessment for work on highways.

V. *And be it further enacted*, That all freeholders, and every free male inhabitant, being above the age of twenty one years shall be assessed to work on the public roads and highways: *Provided however* that all ministers of the gospel, and priests of every denomination whatsoever, and the agents, superintendants, artificers and workmen of every kind employed in and about the Albany glass-house factory belonging to the Hamilton Manufacturing Society, shall be exempted from working on the highways, during the time they shall be so employed.

Assessment of day's work.

VI. *And be it further enacted*, That the commissioners for each town in the several counties aforesaid, shall meet within eighteen days after they shall be so chosen at the place or town meeting, on such day as they shall agree upon, and as often afterwards as need shall be, and at such time and place as they shall think meet; that each of the overseers of the road districts respectively shall deliver a list subscribed by such overseer to the clerk of the town for which he is elected or appointed within sixteen days after the day of election, which list shall contain the names of all the inhabitants in such road district, who are in and by this act made liable to work on the highways; that the said clerk shall deliver such list to the commissioners of the town, who, or a majority of them, shall at their next meeting, or as soon as may be thereafter, affix to the names of each person mentioned in such lists respectively, the number of days which such person shall be liable to work on the high-

ways in the same year, to be determined by the commissioners in proportion to the estate and ability of each respective person; and the commissioners shall thereupon, after causing the clerk of the town to make a copy of such list, and after the said commissioners, or a majority of them, shall have subscribed the copies of such lists, cause the same respectively to be delivered to the overseer of the town who returned the same, in the manner herein before mentioned, or their successors in office: *Provided always*, that if the name of any person shall be left out of such list, or there shall be an accession of new inhabitants, such persons whose names are omitted or shall move into the town, shall from time to time, be added to the said list, and the persons be rated by the said commissioners to work on the highways: *Provided also* that no person shall be assessed more than thirty days, nor less than one day in one year: *And provided further* that the whole number of days assessed in any town shall be at least three times the number of the persons subject to work on the highways in such town, *and further* that not less than one half of the days so assessed shall be worked out in each road district before the first day of July in every year.—

VII. *And be it further enacted*, That every person subject by this act to work on the highways, other than an overseer of the highways, and who shall be assessed in manner aforesaid, shall work the whole number of days he shall be so assessed, or commute for the same at and after the rate of sixty two and an half cents for each day, which money shall be paid to the overseer of the highways of the district in which the person paying the same shall reside, to be by the said overseer applied and expended in the improvement of the roads and bridges in the same district. Commu-
tation for
work.

VIII. *And be it further enacted*, That, when it shall happen that in any of the counties subject to this act, a greater quantity of work is required to keep in repair the roads, than has been rated on the inhabitants of any of the road districts, in any town by the commissioners, at their annual meeting, agreeable to this act, then and in such case it shall be lawful for the overseers of roads in each district, and they are hereby required to make out another assessment, in the same proportion, as near as may be, not to exceed one third of the number of days assessed before in the same year. Where ad-
ditional
work re-
quired.

IX. *And be it further enacted*, That if any overseer of the highways shall require any team, cart, waggon or plough with a pair of horses or oxen, and a man to manage the same from any person so assessed as aforesaid, and having the same, and who shall not commute for the days he may be assessed, the person furnishing the same, when warned so to do by any overseer, shall be entitled to a credit for three days work for one man, and the fine for neglect or refusal shall be proportionable, that is to say, three times the fine to be imposed for the neglect of one person for one day. Where
teams,
carts, etc.,
required.

X. *And be it further enacted*, That when any person assessed to work on the highways shall be warned by an overseer to attend on a day and place certain, with such implements, cattle, and carriages as the overseer shall require, and shall neglect or refuse to appear in person or by an able bodied man, as a substitute, or to bring with him such implements, carriages or cattle as required, or shall remain idle or not work faithfully, or hinder others from working, or neglect or refuse to pay the commutation money, in lieu of such attendance such offender shall for every such offence forfeit the sum of one dollar; and it shall be the duty of such overseer, and he is hereby required, within six days thereafter, in every case in which he shall deem the excuse for such neglect Refusal of
person
assessed to
attend as
required.

or refusal insufficient, to make complaint thereof in writing under his hand to one of the justices of the peace, of the town for which he shall be elected, if any there be, and if there be no justice of the peace in such town, then to the next justice of the adjoining town, and the justice to whom such complaint shall be made, shall forthwith issue a warrant, under his hand and seal directed to any constable of the ward or town where such delinquent shall reside, commanding him to levy such fine on the goods and chattels of such offender, and the justice shall be entitled to receive twenty five cents for issuing such warrant, and the constable the like fees as are allowed for the like services by the act entitled "An act for the more speedy recovery of debts to the value of twenty five dollars," and shall forthwith pay the said fines to the justice who issued the said warrant, who is hereby required to pay the same to the overseer who entered the complaint, to be by him expended in improving the roads and bridges in the district of which he is overseer; *provided*, that the whole of the costs shall not exceed the sum of three dollars: *And provided also*, that no excuse for refusal or neglect on any occasion shall exempt the person excused, from working the whole number of days he may be assessed, or paying the commutation in lieu of it, during the year for which he shall be assessed, and that no person shall be required to work on any highway other than in the road district in which such person resides.

Eight
hours a
day's work.

XI. *And be it further enacted*, That every person assessed to work on the highways, and who shall be warned to work, and shall appear in person or by an able bodied man as a substitute, shall actually work eight hours in each day, and shall be liable to be fined in the sum of twelve and an half cents for every hour such person or substitute shall be in default, to be recovered and expended in like manner as the penalty for refusing or neglecting to work when warned, is by this act directed to be recovered and expended.

Account-
ing by
overseers.

XII. *And be it further enacted*, That each overseer of the highways to be chosen or appointed hereafter, shall on the second Tuesday next preceding the time of holding the annual town meeting in such town, within the year for which he is elected or appointed, render an account in writing to the commissioners of the town, or any two of them who shall meet together on that day, for the purpose of receiving such return of all persons assessed to work on the highways in the district of which he is overseer, of all those who have actually worked on the road or highways, with the number of days they have so worked, of all those who have been fined, and the sums in which they have been fined, of all those who have commuted, of the manner in which the monies arising from fines and commutation have been expended, and shall pay to the commissioners all monies remaining in his hands unexpended, to be applied in making and improving the roads and bridges in said county, in such manner as they shall direct; and if any overseer shall neglect or refuse to render such account, or having rendered such account, shall refuse or neglect to pay any ballance which may then be payable by him, he shall forfeit the sum of fifty dollars, to be recovered by the said commissioners or the survivors or survivor of them, in their or his name, by action of debt, in any court having cognizance thereof, with costs of suit, and the forfeiture so recovered, shall, by the said commissioners or such survivors or survivor of them be applied in making and improving the roads and bridges in such town.

Neglect by
overseers.

XIII. *And be it further enacted*, That every overseer of highways who shall neglect or refuse to warn the people assessed to work on the highways, to come to work with such implements, carriages and cattle

as may be necessary, when required so to do by the commissioners or either of them or to collect the monies that may arise from fines or commutation or to perform any of the duties and services required by this act, or which may be enjoined on him by the commissioners of the town of which he is elected, or a majority of them, shall forfeit, for every such neglect or refusal, the sum of ten dollars to be recovered by any one of the commissioners of the same town in his own name before any justice of the peace in the same county, with costs of suit, to be reported paid and employed in the same manner as the monies to be paid into the hands of the commissioners by the preceding section of this act, are directed to be reported paid and employed: And if any vacancy of overseers shall happen by death or otherwise, the commissioners of the town in which such vacancy shall happen, shall appoint other or others, in his or their stead, and the overseer or overseers so appointed shall have the same power, be subject to the same orders, and liable to the same fines, forfeitures and penalties, as overseers chosen by this act are liable and subject to.

XIV. *And be it further enacted*, That when any road shall be laid out through inclosed or improved lands, the owner or owners thereof shall be paid such damages as such owner or owners may sustain by reason thereof, which damages shall be determined and assessed by two justices of the peace, and by the oaths of twelve reputable freeholders, not having an interest in the land, so to be laid out into a road or highway; that the said freeholders shall be summoned by any constable of the town in which such road or highway shall be laid out as aforesaid, by virtue of a warrant to be issued by the said two justices of the peace for that purpose, and if any road within any town so laid shall be laid out at the request of twelve reputable freeholders of said town, as a common public highway, the whole of the said damages, together with the charges of the commissioners and summoning the jury shall be laid before the board of supervisors of the county who shall cause the same to be raised, levied and collected in said town, in the same manner as the other town charges are by law directed to be raised levied and collected, and order the same to be paid to the commissioners of the said town who shall pay the occupant the sum assessed to him, and appropriate the residue to satisfy the costs; *provided, nevertheless*, that no road or highway shall be laid through any orchard or garden without the consent of the owner or owners thereof, if such orchard shall be of the growth of at least four years, or such garden shall have been cultivated as such at least four years before such highway or road shall be laid out: *And provided further*, that it shall be at the election of the occupant of the land so included in any public highway or private road to have his damages assessed by two justices of the peace and a jury as aforesaid or by three commissioners to be appointed by a judge of the court of common pleas of the county in which such land may be situated, whose duty it shall be to do the same; in which case the costs of such assessment shall be paid as is above provided in case of an assessment by a jury; *and provided also* that no road shall be laid out through any improved land without the consent of the occupant unless upon the application of twelve reputable freeholders of the town in which such road shall be laid out, certifying upon oath that such road is necessary and proper.

Damages where roads laid out through inclosed and improved lands.

XV. *And be it further enacted*, That upon application to the commissioners of any town, for a private road, the commissioners of the town in which such road is desired, shall cause the overseer of highways of the district to summon twelve freeholders of the same town to meet

Proceedings for laying out new roads.

on a day certain, of which day notice shall be given by the overseer to the owner or occupant, and being so met, they shall view the lands through which such road is applied for; and if they shall certify under oath that such road is absolutely necessary, the commissioners shall lay out the same, and cause a record thereof to be made in the town clerks office, and shall cause the damage to be assessed in like manner as if the same was a public highway, which shall be paid by the person or persons applying for such road; and such road when so laid out shall be for the use of such applicant or applicants, his or their heirs and assigns, but not to be converted to any other use or purpose than that of a road; *provided always*, that the occupant or owner of the land, through which such road shall be laid out, shall not be prevented making use thereof as a road, if he shall signify his intention of making use of the same, at the time when the jury or commissioners are to ascertain the damages sustained by laying out such road.

Width of roads.

XVI. *And be it further enacted*, That all public roads to be laid out by the commissioners of any town shall not be less than four rods wide, and all private roads shall not be more than three rods wide.

What roads deemed public highways.

XVII. *And be it further enacted*, That all public highways heretofore laid out and allowed by any law of this State, and now in use within the counties subject to this act, and of which a record shall have been made in the office of the clerk of the county or town, shall be taken and deemed as public highways, and continue such, unless altered in conformity to the provisions contained in this act: *Provided always* that where any roads have been used as public highways for twenty years or more next preceding the twenty first day of March, one thousand seven hundred and ninety seven, the same shall be taken and deemed as public highways, although no record thereof has been made, unless they shall be altered in manner aforesaid; and that it shall be the duty of the commissioners to order the overseers of highways to open all roads to the width of two rods at least, which they shall judge to have been used as public highways for twenty years preceding the said twenty first day of March one thousand seven hundred and ninety seven.

Obstructions to highways.

XVIII. *And be it further enacted*, That if any person within any of the said towns, shall hereafter obstruct any highway or road, or shall fill up or place any obstruction in any ditch constructed for draining the water from any road, such person so offending shall forfeit for every such offence the sum of five dollars, to be recovered with costs of suit in the name of any person who shall make complaint thereof before any justice of the peace of the county where the offence shall happen, upon the oath of one or more credible witness or witnesses and levied by distress and sale of the goods and chattels of the offender, by warrant from the justice to be directed to any constable of the town where such offender shall reside; and the said constable is hereby required to pay such penalty into the hands of the commissioners of highways for the town in which the offence was committed, to be by them applied in improving the public roads and bridges in said town.

Encroachments.

XIX. *And be it further enacted*, That in every case where a highway has been laid out, and the same hath been encroached upon by any present or former occupant of the land through or by which such highway runs, the commissioners of the town shall, if in their opinion, it be deemed necessary, order the fences to be removed so that such highway may be of the breadth originally intended. And if such removal shall not be made in sixty days after such notice given the occupant to whom the notice shall be given shall forfeit and pay the sum of fifty cents for every day that such fences shall continue unremoved after the expiration

of the said sixty days aforesaid, to be recovered in like manner as penalties are directed to be recovered in the next preceding section of this act. *Provided nevertheless* that in case of denial of such encroachment by any occupant, the commissioners shall apply to any justice of the peace of the county for a precept, directed to an overseer of highways of the same town, to summon twelve freeholders thereof to meet on a certain day, of which day notice shall be given by the overseer to one of the commissioners and also to the occupant on which day the jury so summoned after being duly sworn shall enquire whether any encroachment hath been made and by whom, and if they find that such encroachment hath been made, they shall certify the same, and by whom, and if made by the then occupant or any former occupant, the then occupant shall remove his fences, within sixty days thereafter under the penalty aforesaid, and shall pay all the costs attendant on such enquiry, to be recovered by any one of the commissioners before any justice of the peace of the county: But if they shall find that no encroachment hath been made, they shall so certify, and ascertain the damages the then occupant hath sustained by such suit, which together with costs of suit shall be paid by the commissioner or commissioners out of any monies in his or their hands appropriated to the making and repairing highways: *Provided* that no person shall be obliged to remove any fence, except between the first day of April and the first day of November in any year.

XX. *And be it further enacted*, That if any tree or trees upon any enclosed land which hereafter shall fall or be fallen by any person his agent or servant into any highway or into any river now used as an highway, and shall not be removed, but continue in such highway or river for the space of two days after notice given thereof by any person, the person or persons occupying the farm or lot from which such tree or trees shall be fallen, shall forfeit the sum of fifty cents for every tree which shall be so fallen or suffered to remain in such highway or river until the third day, and a like sum for every day thereafter until the same shall be removed, to be recovered and applied in the same manner as penalties for obstructing roads are directed to be recovered and applied: And in case any person shall cut down any tree or trees on land not occupied by him so that they fall into any highway or river as aforesaid, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant the sum of one dollar for every tree so fallen and the like sum for every day the same shall remain therein to be recovered as aforesaid with costs: *And further* that if any person shall cut or cause to be cut down any tree, so that the same shall fall into the Schoharry kill or Catskill, West Canada creek, or Black creek in the town of Water Vleit in the county of Albany and shall not remove the same out of such kill or creek within twenty four hours thereafter he shall forfeit and pay for every tree so cut down and left remaining five dollars; the one half for the use of any person who will sue for the same, and the other half to be paid to the commissioners of highways of the town wherein the offence shall be committed, to be applied to the repairs of the highways of such town and to be recovered before any justice of the peace, with costs of suit.

XXI. *And be it further enacted*, That all trees standing or lying on any land through which any public highways shall be laid out, shall be for the proper use of the owner or occupant of such land, except such of them as may be requisite to make or repair the highways or bridges on the same land; and for preserving the said public highways from

Trees fallen into roads or streams declared highways.

Trees along line of way.

washing away by the current or motion of any river, creek, lake or waters that may adjoin said public highway.

Swinging
gates.

XXII. *And be it further enacted*, That no swinging or other gates shall be allowed on any public highway laid out by virtue of this act, or which has heretofore been laid out, other than such public highways as run through lands liable to be overflowed by the waters of the adjacent rivers or streams in such manner as to remove the fences thereon; and that all such gates shall be erected and kept in good repair by the overseers of the highway of the town, at the proper costs and charges of the occupant of the land for whose benefit the same shall be erected; and if more than one gate shall be erected, and the intermediate land between the gates at the extremities of such land shall be in the occupation of more than one person benefited by such gates, the whole charge of erecting and keeping the same in repair, shall be borne by all the occupants benefited thereby in proportion to the extent of land each occupies adjoining the highway, between the gates at the extremity aforesaid. And in case of the neglect or refusal of any occupant to pay his proportion, the same shall be levied with costs of suit in like manner as fines are by this act directed to be levied, for refusing or neglecting to work on the highways; of all which gates an account shall be filed by the commissioners in the town clerks office; and if any person shall open any such gate, and not immediately, after having passed the same, close it, or shall wilfully and unnecessarily ride over any of the grounds adjoining such road on which such gates shall be permitted, to the damage of the occupant or occupants thereof, each offender shall forfeit for every such offence the sum of one dollar to be recovered by any one of the commissioners of the same town in the manner prescribed by this act for recovering fines for neglect or refusal to work on the highways: *Provided* that such penalty shall not be deemed a satisfaction for such damage but the occupant or occupants of such grounds shall be entitled to an action for the recovery of damages, the payment of such penalty notwithstanding. *And provided further* that swinging or other gates allowed by law, prior to the twenty first day of March, one thousand seven hundred and ninety seven, on public highways or private roads in the county of Westchester, are hereby permitted at the discretion of the commissioners of highways, of the town in which the same are, the said gates being kept in good repair by the owner or owners thereof.

Account-
ing by com-
missioners
of high-
ways;
highway
taxes.

XXIII. *And be it further enacted*, That the commissioners of highways in each of their respective towns, shall render to the supervisor, town clerk and justices of the peace, or a majority of them, at their annual meeting for auditing the accounts of the overseers of the poor of their respective towns, an account of the labour assessed and performed, of the sums by them received for fines and commutation, and all other monies received under this act, and of the improvements which have been made on the roads and bridges in their respective towns during the year immediately preceding such report together with an account of the state of such roads and bridges, with a statement of the improvements necessary to be made thereon, and an estimate of the probable expence of making such improvements beyond what the labour to be assessed in that year will accomplish; and said supervisor, town clerk and justices at their meeting as aforesaid shall examine said account, and make out a certificate containing the substance thereof, and deliver the same certificate to the town clerk of such town, to be by him kept on file for the inspection of any of the inhabitants of said town: *And further* that the said commissioners shall under their hands deliver to the supervisor of such town a like statement of the improvements necessary to be

made on the roads and bridges aforesaid together with the probable expence thereof as aforesaid, which supervisor shall lay the same before the board of supervisors at their next meeting: And the same board of supervisors are hereby required to cause the same to be assessed, levied and collected in such town in the same manner as the other contingent charges are by law directed to be levied and collected, which sums when so collected shall be paid over without delay by the collector or collectors of such towns, out of the first monies coming into his or their hands, except the monies raised in such town for the support of the poor thereof, to the town clerk of such town; and shall by him be paid to the overseers of highways of such town or to one or more of them, on the order of said commissioners: *Provided*, that the monies to be raised as aforesaid in any such town, shall not exceed in any one year the sum of two hundred and fifty dollars.

XXIV. *And be it further enacted*, That it shall be the duty of the commissioners of highways in the several towns of this State, to cause mile boards or stones to be erected, where not already erected, on the post roads and such other public county roads in their respective towns as they may think proper, at the distance of one mile from each other with such fair and legible inscriptions or directions as they may think proper; and if any person shall destroy, remove, injure or deface such mile boards or stones they shall be liable to pay ten dollars for each mile board or stone so destroyed, removed, injured or defaced to be recovered with costs of suit before any justice of the peace of the county where the offence shall be committed: Which penalties so levied and collected shall be paid to the commissioners, or any one of them, in the town where such offence shall be committed and it shall be the duty of the said commissioners forthwith to repair the mile boards or stones so injured or removed, out of the monies arising from such penalties. Milestones.

XXV. *And be it further enacted*, That whenever it shall appear to the board of supervisors of any of the counties subject to this act that any one of the towns in such county would be unreasonably burthened by erecting or repairing any necessary bridge or bridges in such town, the board of supervisors in such county, shall be and they are hereby authorised and required to cause such sum of money to be raised as will be sufficient to defray the expences of erecting or repairing such bridge or bridges or such part thereof as they may deem proper which sum of money shall be levied, collected and paid at the same time and in like manner as the contingent charges of such county are levied, collected and paid, which said money shall be paid over unto the commissioners of the town in which the same is to be expended, on the order of the supervisor thereof: *Provided nevertheless* that the supervisors shall not cause to be levied and raised on any county, any sum exceeding one thousand dollars in any one year. *And provided further*, that in case the commissioners of highways of any such town shall be dissatisfied with the determination of the said supervisors, touching an allowance for any such bridges, such determination shall, on the application of the commissioners, be revised by the court of common pleas for the same county, whose order in the premises shall be observed by every such board of supervisors.— Where bridge erected at cost of county.

XXVI. *And be it further enacted*, That each of the commissioners shall be allowed the sum of one dollar per day for every day, they shall be employed in executing the duties enjoined on them by this act, and their accounts shall be audited and paid as other town officers are paid. Allowance to commissioners.

XXVII. *And be it further enacted*, That the commissioners of each of the towns aforesaid, shall out of any monies which may come into Guide posts.

employed therein, to be paid by such party appealing where the determination of the commissioners shall be affirmed, but where such determination shall be reversed, the same shall be collected and paid as part of the contingent charges of the county.

Road districts.

II. *And be it further enacted*, That the commissioners of the respective towns, or the major part of them shall annually, at least ten days before the annual town meeting, if they shall judge the same necessary by writing under their hands, to be lodged with the town clerk, and by him to be entered in the town book, divide their respective towns into as many road districts as they shall judge convenient.

Roads extending into two towns.

III. *And be it further enacted*, That when the commissioners of any town shall disagree with the commissioners of any other town in the same county relating to the laying out of a new road, or the alteration of an old road extending into both towns; or when the commissioners of a town in one county shall disagree with the commissioners of a town in another county relative to laying out a new road or altering an old road which shall extend into both counties, the commissioners of both towns shall meet together at the request of either disagreeing commissioners, and make their determination upon such subject of disagreement.—

Overseers, duty of.

IV. *And be it further enacted*, That it shall be the duty of the overseers of highways, to repair and keep in order the highways, within the several districts for which they shall be elected, to warn all persons assessed to work on the highways in their respective districts to come and work when required so to do by the commissioners or any one of them; to collect all fines and commutation money, and to execute all such orders of the commissioners of the town to which they belong, as shall be given by them in conformity to law; and if any overseer shall be employed more days in executing the several duties enjoined on him by this act, than he is assessed to work on the highways, he shall be paid for the excess at the rate of one dollar per day, and be allowed to retain the same out of the monies which may come into his hands, for fines in conformity to this act, but shall not be permitted to commute for the days he is assessed.

Who liable to assessment for work on highways.

V. *And be it further enacted*, That all freeholders, and and every free male inhabitant, being above the age of twenty one years shall be assessed to work on the public roads and highways: *Provided however* that all ministers of the gospel, and priests of every denomination whatsoever, and the agents, superintendants, artificers and workmen of every kind employed in and about the Albany glass-house factory belonging to the Hamilton Manufacturing Society, shall be exempted from working on the highways, during the time they shall be so employed.

Assessment of day's work.

VI. *And be it further enacted*, That the commissioners for each town in the several counties aforesaid, shall meet within eighteen days after they shall be so chosen at the place or town meeting, on such day as they shall agree upon, and as often afterwards as need shall be, and at such time and place as they shall think meet; that each of the overseers of the road districts respectively shall deliver a list subscribed by such overseer to the clerk of the town for which he is elected or appointed within sixteen days after the day of election, which list shall contain the names of all the inhabitants in such road district, who are in and by this act made liable to work on the highways; that the said clerk shall deliver such list to the commissioners of the town, who, or a majority of them, shall at their next meeting, or as soon as may be thereafter, affix to the names of each person mentioned in such lists respectively, the number of days which such person shall be liable to work on the high-

ways in the same year, to be determined by the commissioners in proportion to the estate and ability of each respective person; and the commissioners shall thereupon, after causing the clerk of the town to make a copy of such list, and after the said commissioners, or a majority of them, shall have subscribed the copies of such lists, cause the same respectively to be delivered to the overseer of the town who returned the same, in the manner herein before mentioned, or their successors in office: *Provided always*, that if the name of any person shall be left out of such list, or there shall be an accession of new inhabitants, such persons whose names are omitted or shall move into the town, shall from time to time, be added to the said list, and the persons be rated by the said commissioners to work on the highways: *Provided also* that no person shall be assessed more than thirty days, nor less than one day in one year: *And provided further* that the whole number of days assessed in any town shall be at least three times the number of the persons subject to work on the highways in such town, *and further* that not less than one half of the days so assessed shall be worked out in each road district before the first day of July in every year.—

VII. *And be it further enacted*, That every person subject by this act to work on the highways, other than an overseer of the highways, and who shall be assessed in manner aforesaid, shall work the whole number of days he shall be so assessed, or commute for the same at and after the rate of sixty two and an half cents for each day, which money shall be paid to the overseer of the highways of the district in which the person paying the same shall reside, to be by the said overseer applied and expended in the improvement of the roads and bridges in the same district.

Commutation for work.

VIII. *And be it further enacted*, That, when it shall happen that in any of the counties subject to this act, a greater quantity of work is required to keep in repair the roads, than has been rated on the inhabitants of any of the road districts, in any town by the commissioners, at their annual meeting, agreeable to this act, then and in such case it shall be lawful for the overseers of roads in each district, and they are hereby required to make out another assessment, in the same proportion, as near as may be, not to exceed one third of the number of days assessed before in the same year.

Where additional work required.

IX. *And be it further enacted*, That if any overseer of the highways shall require any team, cart, waggon or plough with a pair of horses or oxen, and a man to manage the same from any person so assessed as aforesaid, and having the same, and who shall not commute for the days he may be assessed, the person furnishing the same, when warned so to do by any overseer, shall be entitled to a credit for three days work for one man, and the fine for neglect or refusal shall be proportionable, that is to say, three times the fine to be imposed for the neglect of one person for one day.

Where teams, carts, etc., required.

X. *And be it further enacted*, That when any person assessed to work on the highways shall be warned by an overseer to attend on a day and place certain, with such implements, cattle, and carriages as the overseer shall require, and shall neglect or refuse to appear in person or by an able bodied man, as a substitute, or to bring with him such implements, carriages or cattle as required, or shall remain idle or not work faithfully, or hinder others from working, or neglect or refuse to pay the commutation money, in lieu of such attendance such offender shall for every such offence forfeit the sum of one dollar; and it shall be the duty of such overseer, and he is hereby required, within six days thereafter, in every case in which he shall deem the excuse for such neglect

Refusal of person assessed to attend as required.

or refusal insufficient, to make complaint thereof in writing under his hand to one of the justices of the peace, of the town for which he shall be elected, if any there be, and if there be no justice of the peace in such town, then to the next justice of the adjoining town, and the justice to whom such complaint shall be made, shall forthwith issue a warrant, under his hand and seal directed to any constable of the ward or town where such delinquent shall reside, commanding him to levy such fine on the goods and chattels of such offender, and the justice shall be entitled to receive twenty five cents for issuing such warrant, and the constable the like fees as are allowed for the like services by the act entitled "An act for the more speedy recovery of debts to the value of twenty five dollars," and shall forthwith pay the said fines to the justice who issued the said warrant, who is hereby required to pay the same to the overseer who entered the complaint, to be by him expended in improving the roads and bridges in the district of which he is overseer; *provided*, that the whole of the costs shall not exceed the sum of three dollars: *And provided also*, that no excuse for refusal or neglect on any occasion shall exempt the person excused, from working the whole number of days he may be assessed, or paying the commutation in lieu of it, during the year for which he shall be assessed, and that no person shall be required to work on any highway other than in the road district in which such person resides.

Eight
hours a
day's work.

XI. *And be it further enacted*, That every person assessed to work on the highways, and who shall be warned to work, and shall appear in person or by an able bodied man as a substitute, shall actually work eight hours in each day, and shall be liable to be fined in the sum of twelve and an half cents for every hour such person or substitute shall be in default, to be recovered and expended in like manner as the penalty for refusing or neglecting to work when warned, is by this act directed to be recovered and expended.

Account-
ing by
overseers.

XII. *And be it further enacted*, That each overseer of the highways to be chosen or appointed hereafter, shall on the second Tuesday next preceding the time of holding the annual town meeting in such town, within the year for which he is elected or appointed, render an account in writing to the commissioners of the town, or any two of them who shall meet together on that day, for the purpose of receiving such return of all persons assessed to work on the highways in the district of which he is overseer, of all those who have actually worked on the road or highways, with the number of days they have so worked, of all those who have been fined, and the sums in which they have been fined, of all those who have commuted, of the manner in which the monies arising from fines and commutation have been expended, and shall pay to the commissioners all monies remaining in his hands unexpended, to be applied in making and improving the roads and bridges in said county, in such manner as they shall direct; and if any overseer shall neglect or refuse to render such account, or having rendered such account, shall refuse or neglect to pay any ballance which may then be payable by him, he shall forfeit the sum of fifty dollars, to be recovered by the said commissioners or the survivors or survivor of them, in their or his name, by action of debt, in any court having cognizance thereof, with costs of suit, and the forfeiture so recovered, shall, by the said commissioners or such survivors or survivor of them be applied in making and improving the roads and bridges in such town.

Neglect by
overseers.

XIII. *And be it further enacted*, That every overseer of highways who shall neglect or refuse to warn the people assessed to work on the highways, to come to work with such implements, carriages and cattle

as may be necessary, when required so to do by the commissioners or either of them or to collect the monies that may arise from fines or commutation or to perform any of the duties and services required by this act, or which may be enjoined on him by the commissioners of the town of which he is elected, or a majority of them, shall forfeit, for every such neglect or refusal, the sum of ten dollars to be recovered by any one of the commissioners of the same town in his own name before any justice of the peace in the same county, with costs of suit, to be reported paid and employed in the same manner as the monies to be paid into the hands of the commissioners by the preceding section of this act, are directed to be reported paid and employed: And if any vacancy of overseers shall happen by death or otherwise, the commissioners of the town in which such vacancy shall happen, shall appoint other or others, in his or their stead, and the overseer or overseers so appointed shall have the same power, be subject to the same orders, and liable to the same fines, forfeitures and penalties, as overseers chosen by this act are liable and subject to.

XIV. *And be it further enacted*, That when any road shall be laid out through inclosed or improved lands, the owner or owners thereof shall be paid such damages as such owner or owners may sustain by reason thereof, which damages shall be determined and assessed by two justices of the peace, and by the oaths of twelve reputable freeholders, not having an interest in the land, so to be laid out into a road or highway; that the said freeholders shall be summoned by any constable of the town in which such road or highway shall be laid out as aforesaid, by virtue of a warrant to be issued by the said two justices of the peace for that purpose, and if any road within any town so laid shall be laid out at the request of twelve reputable freeholders of said town, as a common public highway, the whole of the said damages, together with the charges of the commissioners and summoning the jury shall be laid before the board of supervisors of the county who shall cause the same to be raised, levied and collected in said town, in the same manner as the other town charges are by law directed to be raised levied and collected, and order the same to be paid to the commissioners of the said town who shall pay the occupant the sum assessed to him, and appropriate the residue to satisfy the costs; *provided, nevertheless*, that no road or highway shall be laid through any orchard or garden without the consent of the owner or owners thereof, if such orchard shall be of the growth of at least four years, or such garden shall have been cultivated as such at least four years before such highway or road shall be laid out: *And provided further*, that it shall be at the election of the occupant of the land so included in any public highway or private road to have his damages assessed by two justices of the peace and a jury as aforesaid or by three commissioners to be appointed by a judge of the court of common pleas of the county in which such land may be situated, whose duty it shall be to do the same; in which case the costs of such assessment shall be paid as is above provided in case of an assessment by a jury; *and provided also* that no road shall be laid out through any improved land without the consent of the occupant unless upon the application of twelve reputable freeholders of the town in which such road shall be laid out, certifying upon oath that such road is necessary and proper.

XV. *And be it further enacted*, That upon application to the commissioners of any town, for a private road, the commissioners of the town in which such road is desired, shall cause the overseer of highways of the district to summon twelve freeholders of the same town to meet

Damages where roads laid out through inclosed and improved lands.

Proceedings for laying out new roads.

on a day certain, of which day notice shall be given by the overseer to the owner or occupant, and being so met, they shall view the lands through which such road is applied for; and if they shall certify under oath that such road is absolutely necessary, the commissioners shall lay out the same, and cause a record thereof to be made in the town clerks office, and shall cause the damage to be assessed in like manner as if the same was a public highway, which shall be paid by the person or persons applying for such road; and such road when so laid out shall be for the use of such applicant or applicants, his or their heirs and assigns, but not to be converted to any other use or purpose than that of a road; *provided always*, that the occupant or owner of the land, through which such road shall be laid out, shall not be prevented making use thereof as a road, if he shall signify his intention of making use of the same, at the time when the jury or commissioners are to ascertain the damages sustained by laying out such road.

Width of roads.

XVI. *And be it further enacted*, That all public roads to be laid out by the commissioners of any town shall not be less than four rods wide, and all private roads shall not be more than three rods wide.

What roads deemed public highways.

XVII. *And be it further enacted*, That all public highways heretofore laid out and allowed by any law of this State, and now in use within the counties subject to this act, and of which a record shall have been made in the office of the clerk of the county or town, shall be taken and deemed as public highways, and continue such, unless altered in conformity to the provisions contained in this act: *Provided always* that where any roads have been used as public highways for twenty years or more next preceding the twenty first day of March, one thousand seven hundred and ninety seven, the same shall be taken and deemed as public highways, although no record thereof has been made, unless they shall be altered in manner aforesaid; and that it shall be the duty of the commissioners to order the overseers of highways to open all roads to the width of two rods at least, which they shall judge to have been used as public highways for twenty years preceding the said twenty first day of March one thousand seven hundred and ninety seven.

Obstructions to highways.

XVIII. *And be it further enacted*, That if any person within any of the said towns, shall hereafter obstruct any highway or road, or shall fill up or place any obstruction in any ditch constructed for draining the water from any road, such person so offending shall forfeit for every such offence the sum of five dollars, to be recovered with costs of suit in the name of any person who shall make complaint thereof before any justice of the peace of the county where the offence shall happen, upon the oath of one or more credible witness or witnesses and levied by distress and sale of the goods and chattels of the offender, by warrant from the justice to be directed to any constable of the town where such offender shall reside; and the said constable is hereby required to pay such penalty into the hands of the commissioners of highways for the town in which the offence was committed, to be by them applied in improving the public roads and bridges in said town.

Encroachments.

XIX. *And be it further enacted*, That in every case where a highway has been laid out, and the same hath been encroached upon by any present or former occupant of the land through or by which such highway runs, the commissioners of the town shall, if in their opinion, it be deemed necessary, order the fences to be removed so that such highway may be of the breadth originally intended. And if such removal shall not be made in sixty days after such notice given the occupant to whom the notice shall be given shall forfeit and pay the sum of fifty cents for every day that such fences shall continue unremoved after the expiration

of the said sixty days aforesaid, to be recovered in like manner as penalties are directed to be recovered in the next preceding section of this act. *Provided nevertheless* that in case of denial of such encroachment by any occupant, the commissioners shall apply to any justice of the peace of the county for a precept, directed to an overseer of highways of the same town, to summon twelve freeholders thereof to meet on a certain day, of which day notice shall be given by the overseer to one of the commissioners and also to the occupant on which day the jury so summoned after being duly sworn shall enquire whether any encroachment hath been made and by whom, and if they find that such encroachment hath been made, they shall certify the same, and by whom, and if made by the then occupant or any former occupant, the then occupant shall remove his fences, within sixty days thereafter under the penalty aforesaid, and shall pay all the costs attendant on such enquiry, to be recovered by any one of the commissioners before any justice of the peace of the county: But if they shall find that no encroachment hath been made, they shall so certify, and ascertain the damages the then occupant hath sustained by such suit, which together with costs of suit shall be paid by the commissioner or commissioners out of any monies in his or their hands appropriated to the making and repairing highways: *Provided* that no person shall be obliged to remove any fence, except between the first day of April and the first day of November in any year.

XX. *And be it further enacted*, That if any tree or trees upon any enclosed land which hereafter shall fall or be fallen by any person his agent or servant into any highway or into any river now used as an highway, and shall not be removed, but continue in such highway or river for the space of two days after notice given thereof by any person, the person or persons occupying the farm or lot from which such tree or trees shall be fallen, shall forfeit the sum of fifty cents for every tree which shall be so fallen or suffered to remain in such highway or river until the third day, and a like sum for every day thereafter until the same shall be removed, to be recovered and applied in the same manner as penalties for obstructing roads are directed to be recovered and applied: And in case any person shall cut down any tree or trees on land not occupied by him so that they fall into any highway or river as aforesaid, unless by the order and consent of the occupant, the person so offending shall forfeit to such occupant the sum of one dollar for every tree so fallen and the like sum for every day the same shall remain therein to be recovered as aforesaid with costs: *And further* that if any person shall cut or cause to be cut down any tree, so that the same shall fall into the Schoharry kill or Catskill, West Canada creek, or Black creek in the town of Water Vleit in the county of Albany and shall not remove the same out of such kill or creek within twenty four hours thereafter he shall forfeit and pay for every tree so cut down and left remaining five dollars; the one half for the use of any person who will sue for the same, and the other half to be paid to the commissioners of highways of the town wherein the offence shall be committed, to be applied to the repairs of the highways of such town and to be recovered before any justice of the peace, with costs of suit.

XXI. *And be it further enacted*, That all trees standing or lying on any land through which any public highways shall be laid out, shall be for the proper use of the owner or occupant of such land, except such of them as may be requisite to make or repair the highways or bridges on the same land; and for preserving the said public highways from

Trees fallen into roads or streams declared highways.

Trees along line of way.

washing away by the current or motion of any river, creek, lake or waters that may adjoin said public highway.

Swinging
gates.

XXII. *And be it further enacted*, That no swinging or other gates shall be allowed on any public highway laid out by virtue of this act, or which has heretofore been laid out, other than such public highways as run through lands liable to be overflowed by the waters of the adjacent rivers or streams in such manner as to remove the fences thereon; and that all such gates shall be erected and kept in good repair by the overseers of the highway of the town, at the proper costs and charges of the occupant of the land for whose benefit the same shall be erected; and if more than one gate shall be erected, and the intermediate land between the gates at the extremities of such land shall be in the occupation of more than one person benefited by such gates, the whole charge of erecting and keeping the same in repair, shall be borne by all the occupants benefited thereby in proportion to the extent of land each occupies adjoining the highway, between the gates at the extremity aforesaid. And in case of the neglect or refusal of any occupant to pay his proportion, the same shall be levied with costs of suit in like manner as fines are by this act directed to be levied, for refusing or neglecting to work on the highways; of all which gates an account shall be filed by the commissioners in the town clerk's office; and if any person shall open any such gate, and not immediately, after having passed the same, close it, or shall wilfully and unnecessarily ride over any of the grounds adjoining such road on which such gates shall be permitted, to the damage of the occupant or occupants thereof, each offender shall forfeit for every such offence the sum of one dollar to be recovered by any one of the commissioners of the same town in the manner prescribed by this act for recovering fines for neglect or refusal to work on the highways: *Provided* that such penalty shall not be deemed a satisfaction for such damage but the occupant or occupants of such grounds shall be entitled to an action for the recovery of damages, the payment of such penalty notwithstanding. *And provided further* that swinging or other gates allowed by law, prior to the twenty first day of March, one thousand seven hundred and ninety seven, on public highways or private roads in the county of Westchester, are hereby permitted at the discretion of the commissioners of highways, of the town in which the same are, the said gates being kept in good repair by the owner or owners thereof.

Account-
ing by com-
missioners
of high-
ways;
highway
taxes.

XXIII. *And be it further enacted*, That the commissioners of highways in each of their respective towns, shall render to the supervisor, town clerk and justices of the peace, or a majority of them, at their annual meeting for auditing the accounts of the overseers of the poor of their respective towns, an account of the labour assessed and performed, of the sums by them received for fines and commutation, and all other monies received under this act, and of the improvements which have been made on the roads and bridges in their respective towns during the year immediately preceding such report together with an account of the state of such roads and bridges, with a statement of the improvements necessary to be made thereon, and an estimate of the probable expence of making such improvements beyond what the labour to be assessed in that year will accomplish; and said supervisor, town clerk and justices at their meeting as aforesaid shall examine said account, and make out a certificate containing the substance thereof, and deliver the same certificate to the town clerk of such town, to be by him kept on file for the inspection of any of the inhabitants of said town: *And further* that the said commissioners shall under their hands deliver to the supervisor of such town a like statement of the improvements necessary to be

made on the roads and bridges aforesaid together with the probable expence thereof as aforesaid, which supervisor shall lay the same before the board of supervisors at their next meeting: And the same board of supervisors are hereby required to cause the same to be assessed, levied and collected in such town in the same manner as the other contingent charges are by law directed to be levied and collected, which sums when so collected shall be paid over without delay by the collector or collectors of such towns, out of the first monies coming into his or their hands, except the monies raised in such town for the support of the poor thereof, to the town clerk of such town; and shall by him be paid to the overseers of highways of such town or to one or more of them, on the order of said commissioners: *Provided*, that the monies to be raised as aforesaid in any such town, shall not exceed in any one year the sum of two hundred and fifty dollars.

XXIV. *And be it further enacted*, That it shall be the duty of the commissioners of highways in the several towns of this State, to cause mile boards or stones to be erected, where not already erected, on the post roads and such other public county roads in their respective towns as they may think proper, at the distance of one mile from each other with such fair and legible inscriptions or directions as they may think proper; and if any person shall destroy, remove, injure or deface such mile boards or stones they shall be liable to pay ten dollars for each mile board or stone so destroyed, removed, injured or defaced to be recovered with costs of suit before any justice of the peace of the county where the offence shall be committed: Which penalties so levied and collected shall be paid to the commissioners, or any one of them, in the town where such offence shall be committed and it shall be the duty of the said commissioners forthwith to repair the mile boards or stones so injured or removed, out of the monies arising from such penalties. Milestones.

XXV. *And be it further enacted*, That whenever it shall appear to the board of supervisors of any of the counties subject to this act that any one of the towns in such county would be unreasonably burthened by erecting or repairing any necessary bridge or bridges in such town, the board of supervisors in such county, shall be and they are hereby authorised and required to cause such sum of money to be raised as will be sufficient to defray the expences of erecting or repairing such bridge or bridges or such part thereof as they may deem proper which sum of money shall be levied, collected and paid at the same time and in like manner as the contingent charges of such county are levied, collected and paid, which said money shall be paid over unto the commissioners of the town in which the same is to be expended, on the order of the supervisor thereof: *Provided nevertheless* that the supervisors shall not cause to be levied and raised on any county, any sum exceeding one thousand dollars in any one year. *And provided further*, that in case the commissioners of highways of any such town shall be dissatisfied with the determination of the said supervisors, touching an allowance for any such bridges, such determination shall, on the application of the commissioners, be revised by the court of common pleas for the same county, whose order in the premises shall be observed by every such board of supervisors.— Where bridge erected at cost of county.

XXVI. *And be it further enacted*, That each of the commissioners shall be allowed the sum of one dollar per day for every day, they shall be employed in executing the duties enjoined on them by this act, and their accounts shall be audited and paid as other town officers are paid. Allowance to commissioners.

XXVII. *And be it further enacted*, That the commissioners of each of the towns aforesaid, shall out of any monies which may come into Guide posts.

their hands by virtue of this act, cause guide posts with proper descriptions and devices to be erected at the intersection of all the post roads in this State, and bye-roads leading to or from any town, village or landing. And it shall be the duty of the overseers of the highways in the several towns to maintain and keep in repair such guide posts as may be erected by order of the commissioners within the limits of the districts for which they are elected or appointed respectively; and every person who shall injure or deface any such description or destroy any of the said guide posts shall for every such offence forfeit the sum of ten dollars to be recovered by any one of the commissioners or overseers of highways of the town before any justice of the peace of the county, in the same manner as penalties for obstructing roads are directed to be recovered, part of which to be appropriated by the person recovering the same, in replacing such posts or repairing such injury, and the remainder to be paid in the same manner as penalties for obstructing roads are directed to be paid.

Passage of
carriages
and sleighs
in public
roads.

XXVIII. *And be it further enacted*, That in the counties of Washington, Saratoga, Schoharie, and that part of the county of Albany to the northward of the south bounds of the town of Bethlehem, where any carriages or sleighs meet each other on the road or highway the persons in carriages or sleighs going from the city of Albany shall give way to those going towards the said city; and all persons travelling eastward in any of the public roads and highways in the counties of Dutchess, Columbia and Rensselaer shall give way to those travelling westward: And that in all cases of persons meeting each other on any of the highways in the counties of Orange and Westchester, travelling in carriages, sleighs or waggons each person so meeting shall go to that side of said highway on his left, so as to enable the carriage, sleigh or waggon so meeting to pass each other under the penalty of two dollars for every offence, to be recovered as aforesaid, provided always,

Public
highways
between
Albany and
Schenec-
tady.

XXIX. *And be it further enacted*, That it shall be lawful for the mayor, aldermen and commonalty of the city of Albany, and the commissioners of highways in and for the town of Water Vliet, and the city of Schenectady in the county of Albany, to lay out and open two public roads or highways leading from the said city of Albany to the city of Schenectady at the distance of one rod from each other or as nearly so as conveniently may be, and that all persons going in carriages or sleighs from or to the said city of Albany shall take the right hand road; and that in all cases of carriages or sleighs meeting westward of the city of Schenectady on the great roads running eastwardly and westwardly on either side of the Mohawk river and contiguous thereto, and from the village of Utica in the county of Oneida to the town of Canadarqua in the county of Ontario, the carriages or sleighs going westwardly shall give way to those travelling eastwardly, under the penalty of three dollars for each offence, to be recovered and applied in the same manner as other penalties mentioned in this act, are recovered and applied.

Collectors
to pay
highway
moneys to
commis-
sioners.

XXX. *And be it further enacted*, That where any money may have been paid into the hands of any collector or other officer, of any of the towns of this State for the purposes of erecting or repairing bridges, and improving highways by virtue of any former law, the same shall be paid into the hands of the commissioners of highways of the respective towns, where any such sums may have been collected to be applied to the several objects for which the said several sums of money were raised and collected: *Provided nevertheless*, that the sums of money already directed to be levied by the supervisors of any county on the

requisition of the superintendants of highways thereof shall be expended by such superintendants in like manner as if this act had not passed.

XXXI. *And be it further enacted*, That the city of Hudson shall be considered as a town for all the purposes intended by this act, except that the mayor recorder, aldermen and commonalty of the said city, shall be commissioners of highways in and for the said city of Hudson. City of Hudson.

XXXII. *And be it further enacted*, That all public acts relative to the highways in this State, except such acts as relate to the city and county of New York the city of Albany, and the counties of Suffolk, Queens, Kings and Richmond shall be and hereby are repealed. Acts repealed.

XXXIII. *And be it further enacted*, That the rivers formed by the outlets of Canadarqua, Seneca, Otsego and Cayuga lakes, and as much of the outlet of the Crooked lake as is contained between the Seneca lake and the lowest mill-seat on the said outlet, and the rivers formed by the outlets of the Owasco and Skaneateles lakes, from their respective junctions with the Seneca river, to the first falls in each of the said rivers; and the Nine-mile creek, so called, from its entrance into the Salt lake, to the north line of the town of Marcellus in the county of Onondaga; and the outlet of the said Salt lake and the inlet thereof from the head of the said lake unto the south line of the Onondaga reservation; and the Canaseraga and Chittenango creeks; and the two branches of the said Chittenango creek, known by the names of Lime-stone and Butternut creeks, until the first falls on each of the same; and the Genesee river from the great fall therein, until its junction with the Canaseraga creek; and the said creek from its said junction to the southern boundary of township number seven, in the seventh range in the county of Ontario; and Mud-creek from the eastern boundary of township number twelve in the third range of townships in the said county of Ontario to its junction with the outlet of the Canadarqua lake; and the rivers Conhocton and Canisteo, the former from the mills built thereon adjoining the town of Bath, and the latter from a place known by the name of Big-marsh, to their respective junctions with the river Tioga, and as much of the said river Tioga as is contained within this State; and the west branch of the Chenango river, from the north bounds of the town of Virgil as originally surveyed to its junction with the east branch thereof, and thence down the same, to its junction with the Susquehannah river, and all such parts of the Susquehannah river as are contained within this State; and that part of the creek commonly called Wood-creek in the county of Washington, from Fort-Ann to the falls in the township of Whitehall; and that part of Oneida creek from the bridge over it, near Oneida castle to the Oneida lake; be, and they are hereby declared to be, public highways, except so much of the said waters as may be necessary for the owners of the adjoining land to build store houses and docks for the accommodation of boats; *provided* the same shall not obstruct the navigation of the said waters. Rivers deemed public highways.

XXXIV. *And be it further enacted*, That if any person shall, after the passing of this act dam up or obstruct the navigation of any of the before described waters by erecting or building any mill or weir, or by the building or erecting thereon any other works, or by cutting or falling wood or timber in the same every person so offending shall forfeit for each offence the sum of twenty five dollars to be recovered with costs of suit, by and for the use of any person who will sue for the same before any justice of the peace in the county wherein such offence shall be committed, and the person so offending shall moreover be deemed guilty of a misdemeanor and be prosecuted accordingly by indictment or otherwise: *Provided nevertheless*, that if any person erecting any mill or other Obstructions to streams.

Proviso as to mill

dams and
canals.

works on either of the above described streams shall cut or dig a sufficient canal or canals so that the navigation of the same be not injured by means of such works, such person shall not be liable to any of the penalties of this act. And it shall also be lawful for James Galloway of the town of Palmyra in the county of Ontario to erect a dam across Mud-creek in the said county, within the bounds of the township number twelve in the second range of townships for the purpose of supplying a mill with water; but it shall be the duty of the said James Galloway his heirs and assigns to cause to be made on such dam a sufficient lock or canal to permit the passing of boats or rafts, not less than twelve feet in width and which all persons shall have the liberty of passing at all times free of expence, and also to keep the said lock or canal in good repair as long as the said dam shall be continued across the said creek, and if the said James Galloway his heirs or assigns shall unreasonably delay or hinder any person with rafts or boats from passing said lock or canal he or they shall, for every such offence, forfeit and pay two dollars for every hours detention to be recovered with costs, for the use of the person so delayed or hindered, before any justice of the peace of the said county of Ontario: *And provided also*, that nothing in this act contained shall be construed to extend to, or affect any mill, or dam for the use thereof, that may have been erected, or the building thereof commenced on any of the said streams before the tenth day of August one thousand seven hundred and ninety eight.

Fort Hun-
ter bridge
over Scho-
harie creek

XXXV. *And be it further enacted*, That all the duties required to be done and performed by the superintendants of highways in and by the act entitled "An act making provision to keep in repair the bridge over Schoharie creek at Fort Hunter in the county of Montgomery" passed the first day of April one thousand seven hundred and ninety nine, shall after the passing of this act devolve on, and be done and performed by John T Visscher, William Wemple and Barent Martin who are hereby constituted and appointed commissioners for the purpose aforesaid; and if any vacancy shall by any means whatsoever hereafter happen in the said board of commissioners that then and in such case it shall be, and is hereby made the duty of the board of supervisors of the said county at their first meeting after such vacancy shall happen and upon due notice thereof to appoint some suitable and proper person to fill such vacancy.

Payment
of certain
moneys.

XXXVI. *And be it further enacted*, That all the monies which by the act entitled "An act for opening and improving certain great roads within this State" passed the twenty eighth day of March one thousand seven hundred and ninety seven is directed to be paid into the hands of the superintendants of highways, shall be and hereby is directed to be paid to the supervisors of the several and respective counties in the said act mentioned to be by them applied and laid out for the purposes directed in and by the said act.

Orange-
town,
town of.

XXXVII. *And be it further enacted*, That the commissioners of highways in Orange Town in the county of Rockland or a majority of them are hereby authorised and required to keep in repair hereafter the private road swinging gates, fences and bridges on the south side of, and near the Slote-creek in the said town, and to cause the expences thereof to be borne by such of the proprietors of that part of the salt meadow which lies on the southerly side of the said creek as shall use said road and bridges according to the value of their respective lots or shares therein by a tax to be levied, assessed, collected and paid in the same manner as is directed by the act for defraying the public and necessary charges in the respective counties of this State: *Provided always*, that

the said commissioners shall have their accounts audited and allowed by the supervisors of said county.

XXXVIII. *And be it further enacted*, That the bridge over the Ramapough creek in the town of New Hempstead in the county of Rockland near the house now or late of Lewis Shuert in the Clove and the road called the Short Clove road near Haverstraw landing, shall hereafter be kept in repair by tax on the freeholders and inhabitants of the towns of New Hempstead, Clarks Town and Haverstraw in the said county of Rockland, and the commissioners of the said three towns are hereby directed and required to cause the aforesaid bridge and road to be kept in repair and an account of the expence attending the same, shall be transmitted to the supervisors of the county at their meeting on the last Tuesday in May in every year who are to audit, examine and liquidate the same, and divide the whole amount of the expences so liquidated between the said three towns in the same proportion as the other contingent charges of the county are apportioned, and cause the same to be levied and collected from the freeholders and inhabitants of the said three towns respectively and paid to the county treasurer in like manner as the other contingent charges of the county are raised and paid; and the said treasurer is hereby directed and required from time to time to pay the said monies to the said commissioners of the said towns respectively on their producing an order or orders from the supervisors as is usual in other cases.

Bridge
over Ram-
apo creek
in Rock-
land
county.

XXXIX. *And be it further enacted*, That the commissioners of highways of the town of Kingston in the county of Ulster or the major part of them shall cause to be erected and kept at the expence of said town, such swinging gates on the common road, across the Esopus low lands to the bridge over the Esopus creek as they shall judge proper and every person who shall open and leave open the said swinging gates or either of them, shall be liable for each offence to the penalty of one dollar to be recovered with costs of suit before any justice of the peace in the said county of Ulster by any person who will sue for the same, and the monies arising therefrom shall be applied towards repairing such swinging gates or to such other objects as the corporation of the said town of Kingston may deem meet.

Kingston,
town of.

XL. *And be it further enacted*, That the superintendants of highways heretofore appointed by virtue of the act entitled "An act to regulate highways" passed the twenty first day of March one thousand seven hundred and ninety seven shall be and they are hereby directed and required to account with the supervisors of the respective counties in which they were appointed superintendants in the same manner as if this act had not been passed,

Accounts
of superin-
tendents
previously
appointed

And be it further enacted, That all new waggons to be built in any part of the State shall be so constructed, as that when the wheels are placed upon the axletrees the outside of the fellows of the two wheels on the same axletrees shall not be less than five feet asunder; and if the owner of any waggon built after the first day of September 1797 and not made conformable to the directions aforesaid shall travel with such waggon or suffer any other person to travel therewith on any publick highway, such owner being an inhabitant of this State, shall forfeit one dollar for every day he shall so use such waggon upon the publick highway to be recovered and applied in like manner as penalties for obstructing the publick road are by this act directed to be recovered and applied.

Wagon,
width of
track.

CHAP. 187.

AN ACT concerning quit rents.

PASSED the 8th of April, 1801.

How quit
rents paid;
rate of
compensa-
tion.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That all quit rents shall be paid in the current money of this State, and that where any quit rents shall have been reserved in sterling money the same shall be computed at the rate of four dollars, thirty seven and an half cents for one pound sterling, and where any quit rents shall have been reserved in proclamation money, the same shall be computed as current money of this State, and where any quit rents shall have been reserved in kind, and the value thereof not ascertained in money, the same shall be estimated as they appear to be charged in the accounts of the receiver general of the late Colony now State of New York, and if the same shall not appear therein, or such accounts cannot be found, it shall be lawful for the comptroller of this State to settle the amount of such quit rents as to him shall appear to be equitable.

Certain
rents
remitted.

And be it further enacted, That all quit rents which accrued between the twenty ninth day of September in the year one thousand seven hundred and seventy five, and the twenty ninth day of September in the year one thousand seven hundred and eighty three, and which are due from citizens of this State or of the United States shall be and hereby are remitted and that no purchaser of any lands heretofore forfeited to the people of this State and claiming under the said people by virtue of such forfeiture shall be liable to pay any quit rents for the same, but such quit rents and all arrearages thereof are hereby also remitted.

Id.

And be it further enacted, That all arrears of quit rents upon any farm not exceeding one hundred and fifty acres, whereon no settlement or improvement was made before the first day of January in the year one thousand seven hundred and eighty four, and which has since that time and before the fifth day of April in the year one thousand seven hundred and ninety eight been bona fide purchased and actually settled and improved shall be and hereby are also remitted, except such part thereof as the vendor is bound or has agreed to pay: *Provided* that the owner of such farm shall on or before the first day of April which will be in the year one thousand eight hundred and two commute for the quit rent charged thereon by paying one dollar and seventy five cents for every twelve and an half cents of the said quit rent, and for that purpose every person claiming such remission shall produce to the comptroller a map and description of the land for which the same is claimed, and the original deed or contract of sale for the same, or in case such contract shall have been satisfied or cancelled by any deed or conveyance made subsequent to the said fifth day of April in the year one thousand seven hundred and ninety eight, then such person shall produce to the comptroller satisfactory evidence that such contract of sale existed before that day, and subsequent to the said first day of January in the year one thousand seven hundred and eighty four and the comptroller shall thereupon certify to the treasurer the sum due on such farm for commutation, and the treasurer's receipt for the same on such certificate when countersigned by the comptroller shall be a discharge of all future quit rents thereon; and in case any such farm shall exceed one hundred and fifty acres, and not exceed three hundred

acres, then the owner thereof shall cause to be designated on the said map one hundred and fifty acres thereof, upon which he will pay the commutation as aforesaid, and the residue thereof shall be liable to the quit rent charged thereon and all arrears thereof, but nothing in this section contained shall extend to any farm exceeding three hundred acres nor to any land on which a remission of quit rent hath already been obtained by virtue of any former law of this State.

And be it further enacted, That it shall be lawful for any persons who now are or hereafter may be seized of any lands, tenements or hereditaments as contained in any original grant for the same charged with an annual quit rent, to commute for the same, by paying to the treasurer of this State, for the use of this State, one dollar and fifty cents for every twelve and an half cents of such annual quit rent, either in money or in any of the stock created under the authority of the United States of America at the nominal value thereof; and the treasurer shall give the person making such payment, a receipt or certificate, expressing the sum paid, and the annual quit rent in lieu or discharge of which the same is paid, and describing the lands, tenements or hereditaments on which the same annual quit rent was charged, and the date of the grant reserving the same, which receipt or certificate shall be produced by the person making such payment to the comptroller who shall countersign and then enter the same in a book to be kept in his office; and the said receipt or certificate being so countersigned and entered, or the entry thereof, shall be a good discharge of such quit rent forever.

Commuta-
tions.

And be it further enacted, That where any tract of land, chargeable with quit rent, was originally granted to several persons, and shall have been divided into as many shares as there were originally proprietors in the grant, and where the quit rent reserved by any grant or patent of any tract of land is according to the quantity or by the acre, it shall be lawful for the owners or proprietors of any such share or divided part to commute for the quit rent thereof in manner aforesaid and also to pay the arrears of quit rent which may be due thereon, but no person shall be permitted to commute for the quit rent on any patent or on any part thereof, without first paying the arrears of quit rent then due thereon.

Where
original
tract
divided.

And be it further enacted, That where there are or may be several owners or proprietors of any tract of land chargeable with quit rents whether the same is or shall be situated in one town or in several towns or counties, it shall be lawful for any three or more of such owners or proprietors, whenever there shall be more than one years quit rent due on such tract, to put up an advertisement at some public place on the said land, notifying and requiring all the owners and proprietors of lands in such patent, chargeable with quit rents, to meet at a certain time and place therein to be specified not less than twenty nor more than forty days from the time of setting up such advertisement, to raise and pay the arrears of quit rent then due for such tract, and such of the owners and proprietors of the said land chargeable with quit rent as shall then meet may proceed to choose by plurality of voices two assessors and one collector for the purpose; and the assessors so chosen shall procure from the comptroller of this State an account of the arrears of quit rent due for such patent, with an account of the charges of advertisement, if any, and an account of the quantity of land in such patent if any, on which the quit rent is remitted or discharged by commutation, and shall then proceed to make an assessment roll containing the names of the owners or proprietors of the land in the said patent chargeable with quit rent and the quantity of the land to which he or she is entitled, and the

Proceed-
ings to col-
lect quit
rents from
several
owners of
tract
chargeable

sum with which each of them is respectively chargeable of such arrears according to the quantity of acres which every such person may be entitled to in the same patent or tract with an addition of six per cent for charges, and mentioning the quantity of land, if any, in such patent sold by the commissioners of forfeitures which is not chargeable with quit rent, and subscribe their names to the said assessment roll, and annex the account received from the comptroller to it, and within sixty days from the time they were chosen deliver the same to the collector so chosen, as aforesaid, who shall collect from the respective persons named in such assessment roll, the several sums they shall be respectively charged with, in the same manner as the collectors of public taxes are or shall be empowered to do by law, and shall within six months after he receives such assessment roll, pay the sums by him received or collected thereon for quit rents, to the treasurer of this State, and deliver the said assessment roll to the treasurer, with a certificate thereon signed by such collector if the whole sum therein mentioned is not paid, setting forth which of the persons therein named are delinquent, and the reason the sums they are respectively charged with could not be levied, and such collector shall also pay one per cent of such part of the six per cent so added as aforesaid, as he shall collect, to the assessors for their trouble, and retain the residue as a compensation for his services; and the treasurer shall deliver such assessment roll to the comptroller in order that the patent may be credited with the sum paid for quit rent, and proper measures taken to compel payment of the arrears from the delinquents.

Distress for rents. *And be it further enacted,* That it shall be lawful for the comptroller of this State from time to time by warrant under his hand and seal of office to appoint and authorise any proper person to distrain for the quit rent due or hereafter to become due, upon any divided part of any grant or patent or any tract or parcel of any land contained therein; and every such person so appointed shall be considered as the proper officer for that purpose; but no distress shall be made by virtue of this act upon any lot or divided part of any tract of land, for any arrears of quit rent due for any other part of the said patent or tract of land.

Where three years' rent past due; sale of lands. *And be it further enacted,* That whenever there shall be three years quit rent due upon any grant or patent for lands in this State, or upon any lands contained in such grant or patent, it shall be lawful for the comptroller of this State and he is hereby required to give notice in two or more of the public news papers printed in this State (which notice shall be so continued for three months at the least) that if the owners or proprietors of such lands do not within twelve months after the date of such notice, pay the arrears of quit rent due for such lands, with the charge of such notices, to the treasurer of this State, then so much of the said lands will be sold at public vendue as will pay the same, with the charges of such notices and sale; and such notice shall express to whom the grant or patent was originally made, the date thereof, and the sum due thereby to the last day of payment preceding such notice, as far as the same does appear from accounts of quit rents in the books of the said late receiver general or the accounts of the said treasurer; and upon the failure of payment of the said quit rent and charges of such notices, it shall be lawful for the comptroller of this State and he is hereby required to apply to the junior justice of the supreme court who is hereby authorised and required, as justice of the court of exchequer to cause an advertisement to be published in the news paper printed by the printer to this State, and in one of the public news papers printed in the city of New York, notifying all persons interested in such

lands, to appear before him on such day and at such place as he shall therein appoint, not less than thirty nor more than forty days thereafter, to shew cause, if any they have why so much of the said lands should not be sold as will satisfy and pay the said quit rent with the charge of such notices. And in case no person shall appear at the time and place so appointed, either in person or by attorney, or if any person shall appear at such time and place, the said justice shall hear the parties so appearing in a summary way, and shall thereupon certify under his hand the sum due for quit rent on the said lands, together with the charges of the said notices and the process to issue thereon; and shall then issue process under his seal in the name of the people of this State, tested in the name of such justice and on the day of the date of such certificate, directed to the sheriff of the county where the said lands lie, or if such lands lie in several counties, then to the sheriff of either of the said counties, commanding such sheriff within sixty days after the teste of such process to sell at public vendue to the highest bidder so much of the said lands as will pay the sum so certified to be due for quit rent and charges as aforesaid, and the further incidental charges thereon, and to pay the said monies so certified to be due for quit rent and charges to the treasurer of this State, within sixty days after such sale. And every such sheriff to whom any such process shall be directed, is hereby empowered and required within six days after the receipt of such process, to cause advertisements to be affixed on the court house of the county and at three or more of the most public places in the county where the lands lie, or if the same lie in different counties, then at the court houses of, and at three of the most public places in each of the said counties, that on such day or days (which shall not exceed fifty, nor be less than thirty days after the date of such advertisement) so much of the said lands will be sold at public vendue, at the court house of the county in which such lands shall be situated, to the highest bidder as will pay the sum mentioned in such process together with the charges of advertisement, sale, survey if required and conveyance thereof, and such sales shall be made according to such advertisements and between the hours of nine in the forenoon and two in the afternoon of the days appointed for that purpose, and at the time of such sale such person as will accept the least quantity of land to pay the sum mentioned in such process together with the said charges, of which such sheriff shall then make a true account as far as he can ascertain the same, shall be deemed the highest bidder; and on every sale such sheriff shall make and execute to the purchaser sufficient deeds or conveyances which shall be valid both in law and equity, whether such sale be made in the proper county of such sheriff or in any other county as aforesaid, and shall vest in such purchaser his heirs and assigns an estate in fee simple in the premises so sold; *provided always* that such sheriff before executing such deeds or conveyances, shall cause the land so sold to be surveyed, except in cases where the quit rent on undivided parts of any tract or on particular lots thereof shall have been paid or discharged by commutation or otherwise, in which cases such sheriff may sell and convey as aforesaid any proportion of the other undivided parts of such tract or of the remaining lots thereof, on which the quit rent shall not have been so paid or discharged without causing any survey thereof to be made; and in cases where such survey shall be required as aforesaid, the land so sold and surveyed shall be laid out in one entire piece, and at one side or end of the tract out of which the same shall be sold, and shall always be of the unimproved land if there be sufficient for that purpose in any one piece; *and further* that if there be no court-house

in any county at the time of such advertisement and sale, the advertisement shall be fixed up and the sale be made at the place where the then last court of common pleas for such county was held.

Record of
process.

And be it further enacted, That in every case where such process shall be issued by virtue of this act the same shall be recorded in the office of the secretary of this State, and such process or the record thereof, shall be conclusive proof that the previous notices required by this act had been duly given and published, and that all proceedings previous to the issuing thereof were regular and according to law.

Oath of
sheriff.

And be it further enacted, That every sheriff to whom any such process shall be delivered, shall before he proceeds to execute the same, take an oath, to be administered to him in the words following to wit, "You shall well, truly, faithfully and honestly discharge the trust reposed in you by virtue of an act entitled "An act concerning quit rents" according to the best of your skill and understanding," which oath any justice of the peace is hereby authorised and required to administer, and to give a certificate thereof to the said sheriff, who shall file the same with the clerk of the county of which he shall be sheriff, and in which the lands lie.

Fees of
sheriff;
applica-
tion of
moneys.

XI. *And be it further enacted,* That every such sheriff shall within sixty days after such sale pay to the treasurer of this State the sum mentioned in such process, and it shall be lawful for such sheriff to retain for his services and the charges attending such sale such sum as the judge of the court of exchequer, either in the term or vacation of the said court shall allow for the same, and certify under his hand to be due therefor to such sheriff, and he shall return the surplus money, if any, to the persons to whom the lands so sold belonged immediately before such sale, and if they cannot be found, then such sheriff shall pay the same to the said treasurer, who is hereby required to apply the same as the comptroller shall direct, to the payment of the quit rents due, or which shall thereafter become due from such persons, and the said sheriff shall at the same time deliver to the comptroller a full and just account of the monies arising from such sale and of the application of the same.

When quit
rents cred-
ited by
mistake.

And be it further enacted, That if it shall appear to the comptroller that any payments of quit rents or certificates given for the remission of quit rents in pursuance of any former law of this State shall have been credited by mistake to the wrong patent or lot, or that such certificates altho' duly obtained have not been delivered to the late auditor, or on account of any mistakes therein as to the date of the patent, the names of the patentees or the number of the lots, have not been entered by the said auditor, it shall be the duty of the comptroller on discovering the same to rectify all such mistakes, and to receive all such certificates not delivered as aforesaid and to file and enter the same, and also such other certificates as have not been so entered as aforesaid, which shall be as effectual as if the same had been entered in due time by the said auditor; and that no credit so given by mistake shall operate to discharge any lands from the quit rents justly due thereon.

Rectifica-
tion of
mistakes.

XIII. *And be it further enacted,* That it shall be lawful for the comptroller wherever payments have or shall be made for quit rents or commutation by mistake, to rectify such mistakes and to draw his warrants on the treasurer for any sums of money which shall appear to have been overpaid.

Expenses.

And be it further enacted, That it shall be lawful for the comptroller to draw warrants on the treasurer to defray the expences attending the execution of this act.

And be it further enacted, That the act entitled "An act for the limitation of criminal prosecutions and of actions at law" shall not take effect or be in force, as to quit rents, or any proceeding for the recovery of the arrears thereof, until the first day of January which will be in the year of our Lord one thousand eight hundred and ten.

Statute of
limitation

CHAP. 188.

AN ACT concerning slaves and servants.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That every negro, mulatto or mestee within this State, who is now a slave for life, shall continue such, unless such slave shall be manumitted according to law; and that the baptizing of any slave, shall not be deemed to be a manumission of such slave.

Persons
now slave
to continue
such.

And be it further enacted, That it shall be lawful for the owner of any slave, to manumit such slave by last will or testament or by any certificate or writing for that purpose; but if such slave at the time of such manumission be above the age of fifty years, or within that age, and not of sufficient ability to provide for his or her support, the owner of such slave and the heirs, executors, administrators and assigns of such owner, shall respectively be liable for the maintenance of such slave, in case such slave shall become a charge to any city or town within this State, and the overseers of the poor of any such city or town shall and may from time to time recover the amount of the monies expended for the maintenance of such slave from such owner, his heirs, executors, administrators or assigns, by action of debt or by information, in any court having cognizance thereof; *provided however* that if the owner of such slave, at or immediately before the time of such manumission, shall obtain a certificate signed by the overseers of the poor of the city or town where such owner shall reside, or the major part of them, or if in the cities of New York or Albany by the mayor and recorder of the said cities respectively, certifying that such slave appears to be under the age of fifty years and of sufficient ability to provide for himself or herself, and shall cause such certificate to be registered in the office of the clerk of such city or town, such certificate or the registry thereof shall be conclusive evidence of the facts therein contained, and forever exonerate such owner and his representatives from the maintenance of such slave, and in case of the refusal of such overseers, or of the said mayor and recorder, to grant such certificate, such owner may apply for the same to the court of general sessions of the peace of the city or county in which such owner shall reside, giving ten days notice of such application to the said overseers or mayor and recorder, and if such certificate be granted by such court, the same shall be as effectual as if signed by such overseers or mayor and recorder, and it is hereby made the duty of such overseers, mayor and recorder and court to grant or refuse such certificate according to the truth of the case.

How slave
manumitted.

And be it further enacted, That all the manumissions of slaves made by the people called Quakers and others before the ninth day of March in the year of our Lord one thousand seven hundred and ninety eight, although not in strict conformity to the statutes then in force relating to such manumissions, shall be valid from the time the same were made;

Manumissions
already
made
declared
valid.

provided that every owner of any slave so manumitted, and the heirs, executors, administrators and assigns of such owner, shall be liable for the maintenance of such slave, in case such slave hath or shall become a charge to any city or town within this State, and from time to time be subject to suits by the overseers of the poor for monies expended by any such city or town, in the same manner as is provided in the preceding section of this act.

Importation of slaves.

And be it further enacted, That no slave shall hereafter be imported or brought into this State, unless the person importing or bringing such slave shall be coming into this State with intent to reside permanently therein and shall have resided without this State, and also have owned such slave at least during one year next preceding the importing or bringing in of such slave; *and further* that every person importing or bringing any such slave into this State shall within one year thereafter make oath or affirmation before a judge, mayor, recorder, alderman or justice of the peace that such person hath resided out of this State during one year next preceding the importing or bringing of such slave into this State, and that during the same year such slave hath been the property of such person: And a certificate signed by the judge, mayor, recorder, alderman or justice before whom the said oath or affirmation shall have been made, certifying that the said oath or affirmation hath been made by the person importing such slave, shall within one month after the making thereof, be filed in the office of the clerk of the city or county wherein the person importing such slave shall reside. And if any person whatsoever shall bring or import into this State any slave contrary to the true intent and meaning of this act, or being permitted by this act, to import and bring such slave into this State, shall neglect to make such oath and file such certificate as aforesaid, then every such slave shall be free.

Transfer of slaves imported.

And be it further enacted, That if any person whatever within this State, shall under any colour or pretext whatever sell as a slave, or transfer for any period whatever any person who shall hereafter be imported or brought into this State as a slave, every person so selling or transferring such slave and his or her factor or agent making such sale or transferring, shall be deemed guilty of a publick offence, and shall for every such offence forfeit the sum of two hundred and fifty dollars, to be recovered with costs of suit by any person who will sue for the same by action of debt in any court of record having cognizance thereof, the one half of which forfeiture shall be paid to the treasurer of this State for the use of the people thereof, and the other half to the person who shall sue for the same to effect; *and further* that every person so imported or brought into this State and sold contrary to the true intent and meaning of this act, shall be free.

Exportation of slaves.

And be it further enacted, That if any person shall export or attempt to export any slave, or any servant born of a slave and made free by virtue of this act, to any place without this State, except as is herein-after provided, every person so exporting or attempting to export such slave or servant, and every person aiding or consenting to such exportation or attempt to export, shall be deemed guilty of a publick offence, and shall for every such offence forfeit the sum of two hundred and fifty dollars, to be recovered and paid in like manner as the forfeiture mentioned in the last preceding section is directed to be recovered and paid; and the slave or servant so exported or attempted to be exported, shall be free.

Rights of persons traveling

And be it further enacted, That it shall be lawful for any person, not an inhabitant of this State, who shall be travelling, to or from, or pass-

ing through this State, to bring with him any slave and take such slave with him from this State: And it shall also be lawful for any inhabitant of this State going a journey to any other part of the United States to carry with him or her any such slave or servant as aforesaid: But such inhabitant shall bring back every such slave or servant, and in default thereof, shall be deemed to have committed a publick offence, and to have incurred the forfeiture last aforesaid, unless he or she shall, within six months, after his or her return make proof by his or her own oath or otherwise to the satisfaction of a judge, mayor or recorder of the city or county wherein he or she shall reside, that every such slave or servant not brought back as aforesaid, could not be brought back, by reason of some unavoidable accident, and unless such person shall forthwith file a certificate of having made proof as aforesaid, signed by the magistrate before whom such proof hath been made in the office of the clerk of the city or town in which he or she shall reside. And it shall also be lawful for every person who shall have resided one year within this State, and who shall be about to remove permanently therefrom, to carry with him or her, every such slave as shall have been the property of such person during one year then next preceding; *provided* that before such person shall carry away such slave out of this State, he or she shall make satisfactory proof before a judge of the court of common pleas or a mayor or recorder of the city or county in which he or she last resided, that he or she hath resided within this State during one year then next preceding, and that such slave hath been his or her property during the same year and shall obtain from such judge, mayor or recorder, a licence to carry out of the State such slave. And every master of a vessel who shall receive on board his vessel for the purpose of carrying out of this State any slave for whose exportation such licence as aforesaid hath not been obtained, shall be deemed guilty of a publick offence, and for every such offence, shall forfeit the sum of two hundred and fifty dollars for every slave so received on board, to be recovered and paid in like manner as the forfeiture last before mentioned is directed to be recovered and paid.

to be accompanied by slaves.

And be it further enacted, That every child born of a slave within this State, after the fourth day of July in the year of our Lord one thousand seven hundred and ninety nine, shall be free, but shall remain the servant of the owner of his or her mother and the executors or administrators of such owner in the same manner, as if such child had been bound to service by the overseers of the poor, and shall continue in such service, if a male, until the age of twenty eight years, and if a female, until the age of twenty five years.

Children of slaves declared free.

And be it further enacted, That every person being an inhabitant of this State, who shall be entitled to the service of a child born after the said fourth day of July, shall, within nine months after the birth of such child, cause to be delivered to the clerk of the city or town whereof such person shall be an inhabitant, a certificate in writing, containing the name and addition of such person, and the name, age and sex of the child so born, which certificate, whether the same be delivered before or after the said nine months, shall be by the said clerk recorded in a book to be by him for that purpose provided, and such record thereof, shall be good evidence of the age of such child; and the clerk of such city or town, shall receive from said person, twelve cents for every child so registered; and if any person shall neglect to deliver such certificate to the said clerk within the said nine months, such person shall forfeit and pay for every such offence, five dollars, and the further sum of one dollar for every month such person shall neglect to deliver the

Service by children of slaves.

same, to be sued for and recovered by the clerk of the city or town, in which such person shall reside, the one half to the use of such clerk and the residue for the use of the poor of such city or town.

Abandonment of right of service.

X. *And be it further enacted*, That the person entitled to the service of any child born as aforesaid, may nevertheless within one year after its birth elect to abandon such right, in which case a notification of such abandonment, under the hand of such person, shall be filed with the clerk of the city or town in which such person shall reside, but every child so abandoned, shall be maintained by such person, until it arrive to the age of one year and thereafter shall be considered as a pauper of such city or town and liable to be bound out by the overseers of the poor, in the same manner as the children of paupers in other cases, and such child, while such pauper, and until it shall be so bound out, shall be maintained by the overseers of the poor of such city or town, at the expence of this State, and for that purpose the comptroller is hereby required from time to time, to draw his warrant on the treasurer in favor of such overseers for the amount of such expence, not exceeding the rate of three dollars per month: *Provided* the accounts for the same be first certified and approved by the mayor of such city, or the supervisor and a majority of the justices of such town; and every person who shall omit to notify such abandonment as aforesaid, shall be considered as having elected to retain the service of such child, and be liable for its maintenance until the period to which its servitude is limited as aforesaid.—

Maintenance of former slaves as paupers.

XI. *And be it further enacted*, That all persons heretofore manumitted by this State and formerly the slaves of persons whose estates have been confiscated or forfeited and who were slaves at the time of such confiscation or forfeiture and who then and since have resided and still reside within this State and are unable to support themselves, shall also in like manner be maintained as paupers by the overseers of the poor of the city or town in which they shall reside at the expence of this State, and the accounts of the said overseers for such expence being certified and approved by the mayor of such city, or by the supervisor and a majority of the justices of such town, shall be paid in the manner directed in the preceding section of this act.

Penalty for allowing slave to beg.

And be it further enacted, That if any person shall willingly suffer or permit his or her slave or such servant as aforesaid to beg of others victuals, cloathing or other necessities, such person shall forfeit twenty five dollars for every such offence to be recovered by action of debt with costs of suit in any court having cognizance thereof, by any person who will sue for the same, one half of which forfeiture shall be paid to the prosecutor and the residue to the overseers of the poor of the city or town in which such offence shall be committed, for the benefit of such poor.

Pretended sales of infirm slaves.

And be it further enacted, That if any person shall by fraud or collusion sell or pretend to sell or dispose of any aged or infirm slave to any person who is unable to maintain such slave, such sale or disposition shall be void, and the person making the same shall forfeit the sum of fifty dollars for each offence, and shall moreover be deemed the owner of such slave within the meaning of the next preceding section of this act, and which forfeitures shall be recovered and applied as is directed in the said section.

Concealing slave of another.

XIV. *And be it further enacted*, That if any person shall employ, harbour, conceal or entertain any slave or such servant as aforesaid, knowing such slave or servant to belong to any other person, without the consent of such owner, such person shall forfeit to the owner of such slave or

servant the sum of twelve dollars and fifty cents for every twenty four hours, and in that proportion for a greater or less time, while such slave or servant shall have been so employed, harboured, concealed or entertained, but such forfeiture shall not in the whole exceed the value of such slave, or of the service such owner is entitled to receive from such servant; *and further* if any person shall be guilty of harbouring, entertaining or concealing or of assisting to convey away any such slave or servant, and such slave or servant be lost, or die, such person shall forfeit to the owner of such slave or servant, the value of such slave or of the service such owner shall be entitled to receive from such servant, all of which forfeitures may be recovered by action of debt, with costs of suit in any court having cognizance thereof.

And be it further enacted, That if any person shall trade, or traffic with any such slave or servant, either in buying or selling without the consent of the owner of such slave or the master or mistress of such servant, such person shall for every offence, forfeit treble the value of the articles so bought or sold and also the sum of twelve dollars and fifty cents to the owner of such slave or servant, to be recovered with costs against such person, by action of debt, in any court having cognizance thereof, and every contract so made with such slave or servant, shall be void.

Traffic with slaves without consent of master.

And be it further enacted, That if any person shall sell any rum, or other strong liquor, to any such slave or servant, without the consent of the owner of such slave, or the master or mistress of such servant, such person shall forfeit for every such offence the sum of five dollars, to be recovered in the name of the owner of such slave or servant with costs by action of debt, in any court having cognizance thereof, the one half of which forfeiture, when recovered, shall be paid, by such owner to the overseers of the poor of the city or town, where such offence shall be committed.

Sale of liquors to slave.

And be it further enacted, That if any person shall by theft or trespass committed by any such slave or servant, sustain damage to the value of twelve dollars and fifty cents or under, the owner of such slave or the master or mistress of such servant shall be liable to make satisfaction for the same to the party injured, to be recovered by action of debt with costs, in any court having cognizance thereof.

Theft and trespasses

And be it further enacted, That if any such slave shall strike a white person, it shall be lawful on proof of the same by the oath of such person, for any justice of the peace to commit such slave to gaol, who shall thereupon be tried and punished as in cases of petit larceny according to the act entitled "An act declaring the powers of the courts of general sessions of the peace, and the powers and duties of justices of the peace;" but in all other cases such slave shall have the privilege of trial by jury.

Assaults.

And be it further enacted, That no such slave shall be a witness in any case except for or against another slave in criminal cases.

Witnesses

And be it further enacted, That where any slave shall hereafter be convicted in the supreme court, or in any court of oyer and terminer and gaol delivery or general sessions of the peace, of any crime not punishable with death or with imprisonment in the State prison for life, it shall be lawful for the master or mistress of such slave, to cause such slave to be transported out of this State; *provided* that the court before which such conviction may be had, shall previously certify that the crime whereof such slave shall be convicted, is of such a nature that transportation would be a proper punishment; *and provided also* that such court may also inflict such other punishment on such slave as from

Transportation on conviction of crime.

the nature of the offence, and the course of the law they may judge proper.

CHAP. 189.

AN ACT directing certain monies to be applied to the use of free schools in the city of New York.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York represented in Senate and Assembly, That the mayor, aldermen and commonalty of the city of New York in common council convened, be and they are hereby directed, on or before the first day of August next, to pay to the vestry of the Episcopal church; the vestry of Christs church; the trustees of the first Presbyterian church; the minister, elders and deacons of the Reformed Dutch church; the trustees of the Methodist Episcopal church; the trustees of the Scotch Presbyterian church belonging to the associate reformed synod; and to the trustees of the African school, and to the trustees of the united German Lutheran, the trustees of the German Reformed churches to the trustees of the first Baptist church in the city of New York and to the trustees of the united Brethren or Moravian church each one eleventh part, of all the money which remains in their hands, which they have received by virtue of the act, entitled "An act for the encouragement of schools," passed the 9th day of April 1795, and the act entitled "An act to raise a sum of money for the use of this State by tax and for the further support of government," passed the 3d day of April, 1799.

And be it further enacted That it shall be the duty of the vestry, trustees and minister elders and deacons aforesaid, to put out at interest on real security, the whole amount of the respective shares, which shall by them respectively be received, and the said vestry, trustees, and minister elders and deacons shall annually expend in the instruction of poor children in the most useful branches of common education, the whole of the annual interest which shall accrue on their said respective shares, and shall on the second Tuesday of July in every year, make return to the common council aforesaid, stating in writing the amount and manner in which they have disposed thereof, and how they have applied the income thereof. And such of the said vestry, trustees, and minister, elders and deacons, who shall not apply such income as herein before directed, or who shall fail in complying with the other injunctions of this act, shall forfeit to the said common council such share or shares, as by them shall have been so received. And on refusal to return the same, it shall be the duty of the said common council to sue for and recover such share or shares as shall so become forfeited in any court having cognizance thereof; and the said common council are hereby directed to divide the amount so recovered among the other free schools in the said city, in equal proportions.

And be it further enacted That the fifth section of the act entitled "An act for the encouragement of schools" passed the 9th day of April 1795 and the act entitled "An act further to amend an act entitled "An act for the encouragement of schools" passed the 10th day of March 1797 be and the same are hereby repealed.

CHAP. 190.

AN ACT regulating the fees of the several officers and ministers of justice within this State.

PASSED the 8th of April, 1801.

Be it enacted, by the People of the State of New York represented in Senate and Assembly, That no officer or other person, who shall exact, demand or ask or be allowed any greater or other fee or reward, for or in respect of any service hereafter to be done or performed, than such as is herein after specified, that is to say,

Excessive fees not to be charged; rates.

IN THE COURT FOR THE TRIAL OF IMPEACHMENTS AND CORRECTION OF ERRORS.

The clerks fees.

For {	Reading and filing the writ, return and record, thirty seven and an half cents.	Court of impeachments and correction of errors; clerk.
	Filing every affidavit or other proceeding, twelve and an half cents.	
	Entering every rule, nineteen cents.	
	Every certified copy of a rule, nineteen cents.	
	Entering every appearance, twelve and an half cents.	
	Entering every judgment or dismissal, twenty five cents.	
	Entering the judgment and remittitur on the roll, for each sheet containing seventy two words, twelve and an half cents.	
	The seal to any record or process, fifty cents.	
For {	Copies of records, pleadings, and other proceedings, for each sheet containing ninety words, nine cents.	
	Taxing a bill of costs, fifty cents.	

The cryers fees.

In each cause thirty seven and an half cents.

Crier.

IN THE COURT OF CHANCERY.

The masters fees.

For {	Every summons, thirty seven and an half cents.	Court of chancery; master.
	Copies of all charges and discharges brought in before the master, for each sheet containing ninety words, nine cents.	
	Scheduling writings, for each sheet of such schedule, containing ninety words nine cents.	
	Every report in pursuance of an order made upon hearing a cause one dollar and twenty five cents.	
	Every other report made upon petition or motion only, sixty two and an half cents.	
	Taking and drawing the acknowledgment or proof of a deed or mortgage, thirty seven and an half cents; a lease and release to be considered as one deed.	
	Drawing every report, for each sheet containing ninety words, twelve and an half cents.	
	For {	
Swearing a defendant to an answer or plea, or swearing a witness, or taking an affidavit, twelve and an half cents.		

- For { Signing every exhibit brought before him, twelve and an half cents.
 The caption and writing of every recognizance, thirty seven and an half cents.
 Taxing every bill of costs before a decree, thirty seven and an half cents.
 Taxing a bill of costs, after a decree, seventy five cents.

And all costs of the party plaintiff, including officers fees, whensoever costs shall be directed to be taxed, shall be taxed in one bill only ; and in like manner all the costs of the party defendant, including officers fees, shall be taxed in one bill only, and only one fee shall be allowed for any such one taxation. And where monies are ordered by the court to be put out by a master, or where an estate is ordered to be sold by a master, and where the master is ordered to take an account of an estate, or between partners in trade, the chancellor shall make such allowance to the master for the same, as he shall judge reasonable.

The registers fees.

Register.

- For { Drawing all rules and orders, for each sheet containing ninety words, nineteen cents, and entering the same, for each sheet, nine cents.
 Reading and filing every report, petition or other paper, twelve and an half cents.
 Copies of all rules, orders, reports, affidavits, records, & proceedings, for each sheet containing ninety words, nine cents.
 Every certificate, nineteen cents.
 Entering a cause for hearing, twelve and an half cents.
 Making or certifying notes for the causes that stand for hearing for grounding a subpoena to hear judgment, for each cause, nineteen cents.
 Drawing every decree for each sheet containing ninety words, nineteen cents but no record, writing, report, order or proceeding to be inserted therein verbatim, or in haec verba, shall be computed as any part of such draft.
 Engrossing every decree, including all reports, orders and other proceedings, records and writings inserted therein, for each sheet containing ninety words, and including parchment, twelve and an half cents.
 Entering every dismissal, fifty cents.
 Examining and signing every decree, and attending the chancellor to get the same signed by him, one dollar.
 Searching for any order or decree, for every year in which such search is made six cents.
 Entering all attachments and proclamations, nine cents for each person.
 Entering every amerciamment, nineteen cents.
 Entering an appearance upon process of contempt, twelve and an half cents.
 Engrossing all depositions, exhibits, records, & pleadings to be exemulified, for each sheet, containing ninety words, nine cents

The clerks fees.

Clerk.

Sealing every writ, twenty seven cents.

Drawing and engrossing every subpoena or attachment, including parchment, sixty two and an half cents.

Drawing all other writs and commissions, when done by him, for every sheet containing ninety words, nineteen cents, and engrossing when done by him, for each sheet, including parchment, twelve and an half cents.

Entering the defendants appearance and certificate thereof, and serving the same, twenty five cents; and if two or more defendants appear at one time, no more than one fee, for entering and certifying their appearance, shall be allowed.

Copies of all bills, answers and other pleadings whatsoever, for each sheet containing ninety words, six cents.

Meeting to settle commissioners, on joining in commission, fifty cents.

For { Every certificate that pleadings are filed, costs of contempt paid or other matter necessary to be certified, twelve and an half cents.

Filing every bill, answer, plea, replication, rejoinder, demurrer or other pleading, twelve and an half cents.

Entering a rule to answer, reply or rejoin, or other rule in the rule book, and copy thereof, and serving on the clerk of the opposite party, twenty five cents.

Entering receipt of rule to answer, reply or rejoin or other rule in the rule book and making and serving a copy of the rule on the solicitor, twenty five cents.

Searching for any bill, answer or other pleading, for every year in which such search is made, six cents.

Attending master with rule book, on taxing costs, twenty five cents.

Attending court on hearing with the pleadings, whether they are read or not, fifty cents.

The examiners fees.

Examiner.

Taking the examination of every deponent, for each sheet containing ninety words, twenty five cents.

Making a fair copy of the same, on paper for the witness to sign, for each sheet, twelve cents.

For { Certifying every exhibit shewn to a witness, on his examination, twenty five cents.

Copies of all depositions, exhibits and interrogatories when required, for each sheet containing ninety words, twelve cents.

Attending court with depositions and exhibits, one dollar.

Administering an oath, or taking an affidavit, twelve cents and five mills.

The counsel's fees.

A retaining fee in each cause, three dollars and seventy five cents; but a retaining fee shall not be taxed or allowed to the same person both as counsellor and solicitor in the same cause. Counsel.

For { Perusing and signing every bill, answer, plea, demurrer and other special pleadings, interrogatories and exceptions, if not done by the person acting as solicitor in the same cause, two dollars and fifty cents.

Every motion of course before the chancellor, fifty cents ; but no motion to be allowed for common process, nor for rules to answer, reply, rejoin, produce or examine witnesses, or for publication, or the like, which are to be issued or entered of course by the clerks.

Every special motion one dollar and twenty five cents.

For Arguing every plea or demurrer, three dollars and seventy five cents.

Arguing before the master upon exceptions, or other special matter, two dollars and fifty cents.

Arguing before the chancellor, upon petition or exceptions, two dollars and fifty cents.

Arguing upon the final hearing of any cause, five dollars.

But no cost to be taxed for more than one counsel, in the same cause.

The solicitor's fees.

Solicitor.

A retaining fee in every cause, two dollars and fifty cents ; but when the same person acts as solicitor and counsel, no retaining fee to be allowed as solicitor.

Drawing every bill, answer, plea, demurrer, replication, rejoinder, interrogatories, exceptions and other proceedings, for each sheet containing ninety words, nineteen cents; but no record, writing, report, order or proceeding, to be inserted therein verbatim or in hæc verba, shall be computed as any part of such draft.

All engrossments, including parchment, twelve cents and an half for each sheet containing ninety words, computing all records, writings, reports, orders and proceedings inserted therein, and all copies on paper, six cents for each sheet as aforesaid.

Attending the chancellor on petition, fifty cents.

Attending the court upon hearing, upon every argument, one dollar and twenty five cents.

Attending the register upon drawing decretal order, fifty cents.

For Attending the chancellor upon every common motion, fifty cents.

Attending upon every special motion, when argued, seventy-five cents.

Serving every order, nineteen cents.

Giving notice of the examination of a witness, either before the examiner or a master or commissioners twenty five cents.

Drawing instructions for the examination, twenty five cents.

Abbreviating every bill, answer and other pleadings, and depositions and exhibits, three cents for each sheet containing ninety words.

Drawing brief for counsel, nineteen cents for each sheet containing ninety words, and a copy thereof six cents for each sheet as aforesaid.

Drawing charge or discharge before a master for each sheet containing ninety words, nineteen cents.

Attending the master upon any matter referred to him, fifty cents.

Attending the master upon a summons, fifty cents.

Attending on taxing costs, fifty cents.

- For { Copy of a bill of costs, to be taxed before a decree made, thirty seven and an half cents; after a decree, seventy five cents.
 Drawing notice of every motion, copy and service, thirty seven and an half cents.

The fees of the serjeant at arms.

- For { Taking a person into custody, one dollar. Sergeant-at-arms.
 Mileage, for each mile going out only, twelve and an half cents.
 The return of an order or process, twelve and an half cents.
 Attendance at every final hearing, thirty seven and an half cents.
 Serving every summons to attend a master, twelve and an half cents.
 Taking bail upon attachment or other process, seventy five cents.
 And every person in contempt, before being discharged, shall, besides other fees, pay to the serjeant at arms, eighty three cents.

IN THE SUPREME COURT.

Fees to the commissioner in the city of New York, for acts done by him, appertaining to the office of chancellor and judge of the supreme court.

- For { Taking bail, thirty seven and an half cents. Supreme court; commissioner in New York city.
 Allowing every writ of error, writ of privilege, habeas corpus, procedendo, certiorari or prohibition thirty seven and an half cents.
 Taking the acknowledgement of satisfaction out of court, thirty seven and an half cents.
 Taking the acknowledgment or proof of a deed or mortgage, thirty seven and an half cents; a lease and release to be considered as one deed.
 Admitting an infant by guardian or next friend, twenty five cents.
 Taking the acknowledgement of a fine by dedimus, fifty cents.
 Examining and signing the indentures of a fine, fifty cents.
 Examining and signing the enrollments of the several parts of a fine, twenty five cents for each roll.
 Examining and signing the enrollments of a recovery, sixty two and an half cents.
 Examining and signing the exemplification of a fine or recovery, sixty two and an half cents.
 Taking an affidavit, twelve and an half cents.
 Taking acknowledgment of a warrant of attorney for levying a fine or suffering a recovery, or to prosecute or defend a real action, twenty five cents.
 Allowing a warrant of attorney in other cases, twelve and an half cents.
 Every attendance at his chamber on motion, or on examining a witness, sixty two and an half cents.
 Every order or certificate upon the act concerning insolvent debtors, thirty seven and an half cents.
 Every warrant, order, report or certificate or appointment of trustees, upon the act relative to absconding or absent debtors, thirty seven and an half cents.
 A commissioner for taking every affidavit to be read in the supreme court twelve and an half cents.

Counsel's fees in the court of errors and supreme court.

Counsel.	Perusing and amending every special pleading and entry one dollar and twenty five cents.
	Assisting on special motions, one dollar and twenty five cents.
	Attending the court of errors to make or oppose a motion one dollar and twenty five cents.
For	Trial of a cause or arguing a demurrer, or a special verdict, or in error three dollars and seventy five cents.
	But no costs shall be taxed for counsel in any cause, but where counsel is actually employed, and then only for one counsel.

Attornies fees in the court of errors and supreme court.

Attorney.	Retaining fee, three dollars and sixty two and an half cents; but where several suits are brought upon one bond, note or bill of exchange no more than one retaining fee shall be allowed, nor shall any retaining fee be allowed in any suit upon a bail bond or to the defendants attorney, upon confessing judgment on a bond by virtue of a warrant of attorney.
	Drawing and copy of a warrant of attorney, twelve and an half cents.
	Every term, a term fee of sixty two and an half cents; but no more than three to be allowed in any cause.
	Drawing all process and returns, admissions of guardians or next friends all recognizances of bail, pleadings, adjournments, suggestions, special verdicts, demurrers to evidence and other necessary entries, records, bonds to prosecute, and affidavits, nineteen cents for each sheet containing seventy two words; but no record, writ, return, pleading, bond, covenant or other writing, to be inserted verbatim, or in hæc verba shall be computed as any part of such draft.
	Engrossing the same, including parchment where used, and computing all records, writs, returns, pleadings, bonds, covenants and other writings inserted therein, twelve and an half cents for each sheet containing seventy two words; except that for such engrossments as were formerly used to, be made on paper, there shall be allowed only six cents for each sheet.
For	Every necessary motion, sixty two and an half cents; but no motion to be allowed upon judgment by confession, by virtue of a warrant of attorney, when no suit is brought, either for entering the action or a rule to plead.
	Every attendance before the court of errors, in order to make a motion or to oppose a motion, sixty two and an half cents.
	Arguing every special motion, one dollar and twenty five cents.
	A fee on trial, inquest or assessment of damages by the clerk, one dollar and fifty cents.
	Drawing every postea, seventy five cents.
	Arguing demurrer, special verdict, or in error, three dollars and seventy five cents.
	Drawing a brief, and a copy or copies thereof, one dollar and twelve and an half cents.
	Drawing up a judgment, seventy five cents.
	Entering the judgment on the roll, thirty seven and an half cents.

Every notice, copy and service on the opposite party or his attorney, twenty five cents.

Copy and service of notice of trial, on the clerk, twenty five cents.

Making a note of the issue for the judges, to be served on the clerk, with a copy of the notice of trial, and for copy and service, thirty seven and an half cents.

For Attendance on balloting or striking a jury, or both, sixty two and an half cents.

Attendance on examining a witness out of court, twenty five cents.

Attendance on taxing a bill of costs, twenty five cents.

Serving a certified copy of a rule, or a copy of a declaration, with a certified copy of a rule to plead, nineteen cents.

Copy of a bill of costs to be taxed, delivered to the opposite party or his attorney, if before issue joined or judgment, thirty seven and an half cents; if after, seventy five cents; and no more than one writ of execution shall be taxed in any case.

Fees of the clerk of the supreme court, in civil causes.

Sealing a writ, entering the same, filing the precipe and entering on the docket twelve and an half cents. Clerk, civil causes.

Filing a declaration or other pleading, twelve and an half cents.

Entering an appearance or default, twelve and an half cents.

Entering every rule, nineteen cents.

A certified copy of a rule, when required, twelve and an half cents.

Every report of damages assessed by him, one dollar.

Entering every nonsuit, nineteen cents.

Calling and swearing every jury, twenty five cents.

Entering the return of a writ and filing the writ, twelve and an half cents.

Filing a writ of error, habeas corpus and certiorari, with the return thereof twelve and an half cents.

Swearing each witness, six cents.

Swearing a constable to attend a jury, six cents.

For Reading every writing given in evidence, twelve and an half cents.

Filing every roll, twelve and an half cents.

Docketting a judgment, twenty five cents.

Taking a verdict and entering the same in the minutes, nineteen cents.

Entering a judgment, nineteen cents.

Entering or filing a retraxit or discontinuance, twelve and an half cents.

Drawing and engrossing exemplifications of records, for each sheet containing seventy two words, twelve and an half cents.

Copies of records and pleadings, for each sheet containing seventy two words, nine cents.

Attending and striking a special jury, and delivering a copy of the panel to each party, seventy five cents.

Copies of records to be returned upon writs of error for each sheet containing seventy two words, twelve and an half cents.

Filing an affidavit or other paper, on request, nine cents.

Entering satisfaction on record, nineteen cents.

- For { Searching the records in any one year, twelve and an half cents; and for every other year, in which search is made, three cents.
- Searching for a judgment, six cents for every term in which such search is made.
- Entering confession of lease, entry and ouster, nineteen cents.
- Reading and entering a postea, twenty five cents.
- Swearing each witness to a will, twelve and an half cents.
- Drawing the proof of wills and codicils, nineteen cents for each sheet containing seventy two words.
- Recording a will or codicil, and the proof as by law directed, nineteen cents for each sheet containing one hundred and twenty eight words; and for copies thereof when required twelve and an half cents for every sheet containing one hundred and twenty eight words.
- Examining and signing a note of a fine, twelve and an half cents.
- Examining and signing the indentures of a fine, thirty seven and an half cents.
- Making, entering and endorsing each proclamation of a fine, thirty seven and an half cents.
- Attending and examining the enrollment of the several parts of a fine, sixty two and an half cents.
- Examining and signing, and affixing the seal to the exemplification of a fine or recovery, sixty two and an half cents.
- Signing a judgment twenty five cents; and taxing every bill of costs, fifty cents.

Fees of the clerk of the supreme court in criminal causes, not capital, where the service is done at the request of the defendant; but no fees to be allowed in any other cases.

Clerk, criminal causes.

- For { Entering an appearance, twelve and an half cents.
- Entering the discharge of a person upon bail, twelve and an half cents.
- Entering an imparlance, twelve and an half cents.
- Entering or filing a plea, twelve and an half cents.
- Reading a record or other writing given in evidence, twelve and an half cents.
- Swearing a witness, six cents.
- Respiring a recognizance, six cents.
- Taking a recognizance in court, and entering thereof, thirty seven and an half cents.
- Copies of all indictments, informations and pleadings, when required, for each sheet of seventy two words, nine cents.
- Entering a relinquishment of a plea, twelve and an half cents.
- Entering a submission, twelve and an half cents.
- Every subpoena for witnesses, twenty eight cents.
- Entering an order or rule of court, nineteen cents.
- A copy of an order or rule of court, twelve and an half cents.
- Taking and entering verdict, when for the defendant, nineteen cents.
- Taking and copying a special verdict, for each sheet containing seventy two words, nineteen cents.
- Entering a judgment for the defendant, twenty five cents.
- Reading and entering the allowance of a pardon, or a warrant of nolo prosequi, or cessat processus, thirty seven and an half cents.

Fees of the respective clerks of the circuit courts and sittings.

Entering in the judge's book every cause noticed for trial, twenty five cents. Clerk, circuit courts and sittings.

Filing every nisi prius record, twelve and an half cents

Entering every rule, nineteen cents.

A copy of a rule, twelve and an half cents.

Entering confession of lease, entry and ouster, nineteen cents

Calling and swearing a jury, twenty five cents.

Swearing each witness, six cents.

Swearing a constable to attend a jury, six cents.

Reading every deed and writing given in evidence, twelve and an half cents.

Filing a plea or bill of exceptions, twelve and an half cents.

For Copies thereof for each sheet containing seventy two words six cents.

Taking and entering a verdict, nineteen cents.

A certified copy of the minutes of a trial, twenty five cents.

Copies, if required, of original writings read in evidence on the part of the defendant in cases of special verdict or demurrer to evidence, nine cents for every sheet containing seventy two words.

Entering every non suit, nineteen cents.

Entering every appearance or default, twelve and an half cents, and two dollars and fifty cents in each cause noticed for trial, and not countermanded in due time, in lieu of all travelling charges.

Fees of the clerks of the circuit court in the oyer and terminer and general gaol delivery.

Entering an appearance, twelve and an half cents. Clerk, oyer and terminer and gaol delivery.

A subpœna, twenty five cents.

Entering an order or rule of court, twenty cents.

A copy of an order or rule of court, twelve and an half cents.

Entering a nolo prosequi, or cessat processus, twenty cents.

Reading and entering an allowance of a pardon, twenty five cents.

Swearing a witness, six cents.

Reading every paper given in evidence, twelve and an half cents.

Respiting a recognizance, six cents.

Discharging a defendant by proclamation, twelve and an half cents.

For Entering defendants confession, twelve and an half cents.

Entering or filing defendants plea, twelve and an half cents.

Entering an imparlance, twelve and an half cents.

Taking a recognizance, thirty seven and an half cents.

Entering relinquishment of plea, twelve and an half cents.

Taking and entering verdict, when for the defendant, twenty cents.

Taking and entering special verdict for each sheet, containing seventy two words, twenty cents.

Copies of records, indictments, informations, and pleadings, when required, for each sheet containing seventy two words, nine cents.

Entering allowance of habeas corpus, writ of error, or certiorari, and returning the same, fifty cents.

Sheriff's fees in the supreme court.

Sheriff.

Serving a writ, fifty six cents.

Every mile, going only, six cents, to be computed in the county of Tioga from the bridge commonly called Nanticoke bridge, in the town of Union & in every other county from the sheriffs place of abode, except where it is otherwise fixed by law.

A bail bond or a defendants appearance indorsed, thirty seven and an half cents.

Returning a writ, if served, twelve and an half cents.

Every demand of a defendant, upon an exigent, and every proclamation upon a writ of proclamation, or in a real action, twelve and an half cents.

Summoning a jury, one dollar.

A copy of the panel of the jurors, twelve cents.

Serving an execution for or under two hundred and fifty dollars, two cents and four mills per dollar; and for every dollar more than two hundred & fifty one cents and two mills; the poundage on writs of fieri facias, and all other writs for levying monies, to be taken only for the sum levied.

Advertising lands or tenements for sale on any execution, one dollar and eighty seven and an half cents, to be recovered in like manner as his poundage; and half that sum, if such execution be stayed or settled after advertising and before the sale; and no further sum shall be demanded for continuing such advertisement more than six weeks.

For

Serving a writ of possession or restitution without the aid of the posse comitatus one dollar and twenty five cents; and with the aid of the posse comitatus three dollars and seventy five cents, and mileage for every mile, from the place fixed by law, six cents.

Every person committed to prison, thirty seven and an half cents

Discharging every person from prison, thirty seven and an half cents.

Bringing up a prisoner, by habeas corpus in civil causes, one dollar and fifty cents; and mileage for every mile from the gaol, twelve and an half cents.

Executing a writ of enquiry, summoning the jury for that purpose, and returning the inquisition, one dollar and fifty cents.

Attending a view, one dollar and eighty seven and an half cents per day; and going and returning one dollar and twenty five cents per day.

Attending with a prisoner before a judge on his being surrendered by his bail, and for receiving the prisoner into custody, one dollar.

Summoning the jury to enquire of a forcible entry or detainer, two dollars and fifty cents.

Copy of every writ, when demanded, nineteen cents.

Serving an attachment against the estate of an absconding or absent debtor so much as the judge who issued the warrant, shall certify to be reasonable.

Serving a notification issued by the comptroller on any person to account, for monies received, to the use of the people of this State, the like fees as on serving common process; and

All services done by them in their offices for the public, whether in the supreme court or elsewhere, the like fees as are allowed for the like services in causes between private parties.

Provided, that no sheriff shall be allowed any fee for the service or execution of any mesne process, returnable on the first day of any term unless the same shall be returned during such term, nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day.

The cryers fees in the supreme court.

For	{	Calling every action, nine cents.	Crier.
		Ringing the bell, for each action in court, twelve and an half cents.	
		Calling the jury, twelve and an half cents.	
		Swearing a witness, six cents.	
		Making proclamation for the discharge of any person, nine cents.	
		Calling the plaintiff, on a non suit, nine cents.	
		Calling the defendant, on a default, nine cents.	
		Calling the defendant, on a recognizance, nine cents.	
		Every proclamation upon a fine, nine cents.	

The juror's fees in the supreme court, circuit-courts and sittings.

Fr	{	Every juror for each action in which he is sworn, twelve and an half cents, if in the city and county of New York; and in any other city or county, twenty five cents.	Jurors.
		Every juror coming to, and attending a view, and returning, seventy five cents per day.	
		Every struck juror, or juror from a foreign county, coming to and attending at court and returning, seventy five cents per day.	

Fees to the attorney general.

{	For his services on occasions where he may attend on behalf of the people of this State without the State of New York, at the rate of five dollars and fifty cents per day, besides all charges for expenditures and disbursements necessarily incurred by him in or about the prosecution or defence of any action, right or claim in which the people of this State may be interested; and the like sum per day for his services in attending any court of oyer and terminer and gaol delivery, in any county of this State, other than the city and county of New York, at the request of the person administering the government of this State or of a judge of the supreme court.	Attorney-general.

Fees to the district attorneys.

{	For drawing every precept and every indictment including such as may be prepared by the direction of the grand jury, although afterwards not finally agreed to by them, at the court of oyer and terminer, or gaol delivery and general sessions of the peace, nineteen cents for drawing per folio, and for engrossing, twelve and an half cents per folio.	District attorneys.
	For process of subpoena actually made out and issued, twenty five cents for every subpoena for process actually made out and issued to bring in the defendants, twenty five cents on each indictment.	
	For arguing the matter, where the defendant shall submit, one dollar and twenty five cents.	

For every trial or arguing a demurrer, or in opposition to a motion in arrest of judgment in the court of oyer and terminer or gaol delivery, and general sessions of the peace, four dollars.

For the proceedings in outlawry, twelve dollars and fifty cents, for each defendant outlawed, and at the rate of fifteen cents per mile, to be computed from their respective places of residence, for going to and returning from each court, they shall attend.

For a transcript certified into the court of exchequer, twenty five cents for each defendant named therein.

For making up a record by order of a judge, nineteen cents for the draft, and twelve and an half cents for the copy, for each sheet containing seventy two words, and the like compensation if made up at the instance of a defendant, but then to be paid for by such defendant.

And for their services at any court at which the attorney general shall also attend, at the request of the person administering the government of this State, or a judge of the supreme court five dollars for every day they shall so attend.

THE FEES OF THE JUDGES OF THE COURTS OF COMMON PLEAS AND MAYORS COURTS.

Fees to the first judge.

Common
pleas; first
judge.

For a licence to an attorney, one dollar.

Fees to the recorder in the several mayors courts.

Recorder

For the first motion in every cause, seventy five cents.

Fees to be divided among the judges who are present when the service is done.

Judges
present.

For the first motion in every cause in the court of common pleas, thirty seven and an half cents.

For admitting a person to practice as an attorney one dollar and eighty seven and an half cents.

Admitting a guardian on the act for the partition of lands, twenty five cents.

Fees to be paid to the judge, mayor or recorder who does the service.

Judge,
mayor or
recorder
doing the
service.

Admitting an infant by guardian or next friend, nineteen cents.
Taking bail in his own court twenty five cents; in the supreme court thirty seven and an half cents.

Taking acknowledgment of satisfaction out of court, twelve and an half cents.

Attending on shewing cause of action or other special matter out of court, twenty five cents.

For { Taking an affidavit, twelve and an half cents.
Allowing a warrant of attorney, twelve and an half cents.
Taking and drawing, acknowledgment or proof of a deed or mortgage, lease and release to be considered as one deed, thirty seven and an half cents.

A certificate or order concerning an insolvent debtor, thirty seven and an half cents.

A warrant, order, report, certificate or appointment of trustees in pursuance of the act concerning absconding and absent debtors, thirty seven and an half cents.

- For { Signing a judgment, twelve and an half cents.
 Taxing a bill of costs, twenty five cents ; but no judgment shall be signed, or taxation of costs made by any assistant judge of any court.

Fees of the justices of the peace.

- For { A precept to summon a jury to enquire of a forcible entry or detainer, thirty seven and an half cents. Justice of the peace.
 Administering an oath, twelve and an half cents.
 Swearing a jury to enquire of a forcible entry or detainer, twenty five cents.
 A precept to summon a jury to try a traverse of the force, thirty seven and an half cents.
 Swearing a jury to try the traverse, twenty five cents.
 Drawing the conviction on a forcible entry or detainer, one dollar.
 A warrant of restitution, thirty seven and an half cents.
 A mittimus for a fine or forfeiture, nineteen cents.
 A warrant against any person for a breach of the peace, or a misdemeanor, nineteen cents.
 A bond or recognizance, twenty five cents.
 A summons upon a penal law, twelve and an half cents.
 Drawing a conviction, thirty seven and an half cents.
 A warrant to levy a penalty, nineteen cents.

The attornies fees in the courts of common pleas, and mayor's court.

- For { For a retaining fee, two dollars and fifty cents; but where several suits are brought upon one obligation, note or bill of exchange, no more than one retaining fee shall be allowed, nor shall any retaining fee be allowed in any suit upon a bail bond, or to the defendants attorney upon confessing judgment on a bond, by virtue of a warrant of attorney. Attorneys.
 A warrant of attorney, twelve and an half cents. .
 Drawing and copy of a plaint, nineteen cents.
 Every necessary motion, twenty five cents.
 Drawing a declaration, seventy five cents.
 Copy of a delaration, thirty seven and an half cents.
 Drawing a plea, twenty five cents.
 Copy thereof, twelve and an half cents.
 Drawing all other pleadings, twelve and an half cents for each sheet containing seventy two words; and for a copy thereof, six cents for each sheet.
 Drawing a writ of enquiry and copy, one dollar and twelve and an half cents.
 For drawing every notice of trial, copy and service, twenty five cents.
 Copy and serving on the judge or judges, twelve and an half cents.
 Drawing every other notice, copy and service, nineteen cents.
 Drawing a brief for trial or inquest, and copy, seventy five cents.
 Fee on trial or for arguing demurrer or special verdict, two dollars.
 Fee on inquest or assessment of damages by the clerk, one dollar.

- For { Attendance on a judge, on examining a witness, or shewing cause of action, or to mitigate bail, or other special matter, twenty five cents.
 Attendance on taxing costs, twenty five cents.
 Copy of a bill of costs to be taxed, for the opposite party or his attorney, when required, twenty five cents.
 Drawing and copy of record of judgment, one dollar and fifty cents.

Fees of the clerks of the courts of common pleas and mayor's courts.

Clerk.

- For { For every writ of capias, entering the action and seal, twenty five cents.
 A bond given by the plaintiff to prosecute, when necessary, twenty five cents.
 Copy of a declaration, when required, thirty seven and an half cents.
 Copies of all other pleadings, when required, six cents for each sheet of seventy two words.
 Filing every declaration or other pleading or paper, six cents.
 Entering a retraxit, or discontinuance, or satisfaction, twelve and an half cents.
 Entering every rule, twelve and an half cents, and for a copy thereof, when required, twelve and an half cents.
 Attending the striking or balloting a jury, or both, and making a copy of the panel for each party, fifty cents.
 Entering an appearance or default, six cents.
 Entering the return of every writ six cents, and filling the writ, six cents.
 Drawing special bail, when he does it, twelve and an half cents.
 Reading and entering allowance of habeas corpus, writ of error or certiorari and for the return thereof, fifty cents.
 A venire or other jury process and seal, thirty seven and an half cents.
 A subpoena, twenty five cents.
 Calling a panel and swearing a jury, nineteen cents.
 Swearing each witness on trial, six cents, and swearing a constable, six cents.
 Reading every paper given in evidence, six cents.
 Receiving and entering a verdict, twelve and an half cents.
 Entering judgment, twelve and an half cents.
 Sealing a writ of enquiry, nineteen cents.
 Every report of damages assessed by him, one dollar.
 Drawing a jury and making a panel, at the instance of a sheriff or other proper officer on jury process, seventy five cents.
 Making and returning a book of freeholders, for striking a jury, three dollars and seventy five cents.
 An execution and seal, thirty seven and an half cents.
 Entering recognizance of bail on record, twenty five cents.
 Drawing and copy of a record of judgment, when done by him, one dollar and fifty cents, and for a copy to be signed, when the attorney makes the draft, seventy five cents.
 Searching the records in any one year twelve and an half cents, and for every other year in which search is made three cents.
 Docketing a judgment, twelve and an half cents.
 Filing a record, six cents.

- For { Searching for a judgment in one term, twelve and an half cents; and in every other term in which such search is made, six cents.
 Swearing each witness to a will or codicil, six cents.
 Drawing the proof of wills or codicils, twelve and an half cents, for each sheet of seventy two words.
 For { For recording deeds, wills and codicils, and the proof thereof required by law nineteen cents for each sheet containing one hundred and twenty eight words; and for copies thereof, when required, twelve and half cents for every sheet of one hundred and twenty eight words.
 Entering or registering each mortgage, one dollar.
 Entering satisfaction on every mortgage, twenty five cents.

And the said clerk, as clerk of the general sessions of the peace shall be entitled to the same fees for the like services, as he is entitled to receive as clerk of the oyer and terminer and general gaol delivery; and no person being bound by recognizance to appear and answer, or indicted and fined, either in the supreme court, or any court of oyer and terminer and gaol delivery or general sessions of the peace, shall be discharged, until such person shall have paid the fees of the clerks of the said courts respectively.

The sheriffs fees in the courts of common pleas and mayors courts.

- For { Serving a writ, thirty seven and an half cents. Sheriff.
 Mileage, to be computed as in the supreme court, six cents per mile.
 Every bail bond, thirty seven and an half cents.
 Returning a writ, if served, nine cents.
 Summoning a jury, seventy five cents.
 A copy of the panel of the jurors, twelve cents.
 Attending a view, one dollar and twenty five cents per day, and going and returning, one dollar per day.
 Every demand of a defendant upon an exigent, and every proclamation on a writ of proclamation or in a real action, twelve and an half cents.
 Serving an execution for or under two hundred and fifty dollars, six cents for every two dollars and fifty cents; and for every two dollars and fifty cents more, three cents; the poundage on writs of fieri facias and all other writs, for levying money, to be taken only on the sum levied.
 For { Serving a writ of possession or restitution, with the aid of the posse comitatus, two dollars and fifty cents; and without such aid, one dollar and twenty five cents, and mileage going only, for every mile from the place fixed by law, six cents.
 Every person committed to prison, thirty seven and an half cents.
 Discharging every person from prison, thirty seven and an half cents.
 Executing a writ of enquiry, summoning the jury for the purpose, and returning the inquisition, one dollar and fifty cents.
 Attending with a prisoner before a judge, on his being surrendered by or in discharge of his bail, and receiving the prisoner into custody, fifty cents.
 Copy of every writ, when demanded, twelve and an half cents.
 Serving an attachment against the estate of an absconding or absent debtor, so much as the judge who issues the warrant, shall certify to be reasonable.

Provided, that no sheriff shall be allowed any fee for the service or execution of any mesne process, returnable on the first day of any term, unless the same shall be returned during such term, nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day—

The cryer's fees in the courts of common pleas, sessions and mayors court

Crier.

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| For { | For calling every action, nine cents. |
| | For calling a jury, twelve and an half cents. |
| | Calling and swearing a witness, six cents. |
| | Ringling the bell for every action, nine cents. |
| | Calling a defendant, six cents. |
| | Calling a plaintiff on a nonsuit, six cents. |
| | Making proclamation for the discharge of any person, six cents. |
| | Calling any person on recognizance, six cents. |

The jurors fees in the common pleas and mayors courts.

Jurors.

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|-------|---|
| For { | Every juror sworn in each action in the mayors court of the city and county of New York, twelve and an half cents; and in any other court of common pleas or mayors court, twenty five cents. |
| | Each juror attending a view, fifty cents per day. |
| | Every struck juror, seventy five cents per day. |

The coroner's fees.

Coroner.

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|-------|---|
| For { | The view of each body, three dollars and seventy five cents; <i>provided</i> that in Richmond county, the coroners fees shall be no more, than two dollars and fifty cents. |
| | Serving writs, in all cases, the like fees as are herein before allowed to the sheriff for the like service. |

And the fees of the coroner for taking inquests in each county, shall be certified by at least two of the supervisors, and paid by the treasurer of the county; and in the city of New York, the same shall be paid in the same manner as the other contingent charges in the said city are directed to be paid.

The constable's fees.

Constable.

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| For { | For serving a warrant, nineteen cents. |
| | Serving a summons, twelve and an half cents. |
| | Mileage, for every mile going only, six cents. |
| | Levying a fine or penalty, to the amount of two dollars and fifty cents or under, twelve and an half cents; and on all sums above two dollars and fifty cents, at the rate of twelve and an half cents on every two dollars and fifty cents. |
| | Taking a defendant into custody on a mittimus, twelve and an half cents. |
| | For conveying a prisoner to gaol, twelve and an half cents, if within one mile; and for every mile more, going only, six cents. |

Fees of the court of probates.

For	Administering an oath, twelve and an half cents.	Court of probate.
	Drawing the proof of a will or codicil, nineteen cents for each sheet containing one hundred and twenty eight words.	
	The probate of a will and the letters testamentary thereon, or letters of administration, nineteen cents for each sheet of one hundred and twenty eight words.	
	Affixing the seal to the same, seventy five cents.	
	Drawing and copy of bond, on granting letters of administration fifty cents.	
	Recording wills, codicils and the proof thereof, and letters testamentary, and letters of administration, nineteen cents for each sheet, containing one hundred and twenty eight words.	
	Entering and filing a caveat, nineteen cents.	
	A citation to witnesses, or for any other purposes, including the seal, seventy five cents.	
	Taking and entering and filing a renunciation, thirty seven and an half cents.	
	Filing an inventory, twelve and an half cents, searching the records in his office, in any one year, twelve and an half cents, and for every other year in which such search is made, six cents.	
	Filing a petition, twelve and an half cents.	
	Making and entering every order, seventy five cents.	
	Taking depositions, nineteen cents for each sheet, containing one hundred and twenty eight words.	
	Copies of all records, depositions or other pleadings, when required, twelve and an half cents for each sheet containing one hundred and twenty eight words.	
	Every decree or sentence in suits for legacies or distributions, or order for the sale of any real estate, three dollars and seventy five cents.	
	An execution, one dollar and twenty five cents.	
	Hearing and determining where a will or administration is contested or upon appeal, two dollars and fifty cents.	
	The seal to exemplifications, seventy five cents.	

The fees of the surrogates.

For	Administering an oath, twelve and an half cents.	Surrogate.
	Drawing the proof of a will or codicil, nineteen cents for each sheet containing one hundred and twenty eight words.	
	The probate of a will and letters testamentary thereon or letters of administration, nineteen cents for each sheet containing one hundred and twenty eight words.	
	The seal to the same, seventy five cents.	
	The bond upon granting letters of administration, fifty cents.	
	Recording wills, codicils and the proof thereof, and letters testamentary and letters of administration, nineteen cents for each sheet containing one hundred and twenty eight words.	
	Entering and filing a caveat, nineteen cents.	
	Filing every petition for the sale of any real estate, twelve and an half cents.	
	Making and entering every order thereon, seventy five cents.	
	Every decree or order for the sale of any real estate, three dollars and seventy five cents.	

Sheriff's fees in the supreme court.

Sheriff.

Serving a writ, fifty six cents.

Every mile, going only, six cents, to be computed in the county of Tioga from the bridge commonly called Nanticoke bridge, in the town of Union & in every other county from the sheriffs place of abode, except where it is otherwise fixed by law.

A bail bond or a defendants appearance indorsed, thirty seven and an half cents.

Returning a writ, if served, twelve and an half cents.

Every demand of a defendant, upon an exigent, and every proclamation upon a writ of proclamation, or in a real action, twelve and an half cents.

Summoning a jury, one dollar.

A copy of the panel of the jurors, twelve cents.

Serving an execution for or under two hundred and fifty dollars, two cents and four mills per dollar; and for every dollar more than two hundred & fifty one cents and two mills; the poundage on writs of fieri facias, and all other writs for levying monies, to be taken only for the sum levied.

Advertising lands or tenements for sale on any execution, one dollar and eighty seven and an half cents, to be recovered in like manner as his poundage; and half that sum, if such execution be stayed or settled after advertising and before the sale; and no further sum shall be demanded for continuing such advertisement more than six weeks.

For Serving a writ of possession or restitution without the aid of the posse comitatus one dollar and twenty five cents; and with the aid of the posse comitatus three dollars and seventy five cents, and mileage for every mile, from the place fixed by law, six cents.

Every person committed to prison, thirty seven and an half cents

Discharging every person from prison, thirty seven and an half cents.

Bringing up a prisoner, by habeas corpus in civil causes, one dollar and fifty cents; and mileage for every mile from the gaol, twelve and an half cents.

Executing a writ of enquiry, summoning the jury for that purpose, and returning the inquisition, one dollar and fifty cents.

Attending a view, one dollar and eighty seven and an half cents per day; and going and returning one dollar and twenty five cents per day.

Attending with a prisoner before a judge on his being surrendered by his bail, and for receiving the prisoner into custody, one dollar.

Summoning the jury to enquire of a forcible entry or detainer, two dollars and fifty cents.

Copy of every writ, when demanded, nineteen cents.

Serving an attachment against the estate of an absconding or absent debtor so much as the judge who issued the warrant, shall certify to be reasonable.

Serving a notification issued by the comptroller on any person to account, for monies received, to the use of the people of this State, the like fees as on serving common process; and

All services done by them in their offices for the public, whether in the supreme court or elsewhere, the like fees as are allowed for the like services in causes between private parties.

Provided, that no sheriff shall be allowed any fee for the service or execution of any mesne process, returnable on the first day of any term unless the same shall be returned during such term, nor on any such process returnable on any subsequent day of any term, unless the same shall be returned within twenty days after the return day.

The cryers fees in the supreme court.

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| For { | Calling every action, nine cents. | Crier. |
| | Ringing the bell, for each action in court, twelve and an half cents. | |
| | Calling the jury, twelve and an half cents. | |
| | Swearing a witness, six cents. | |
| | Making proclamation for the discharge of any person, nine cents. | |
| | Calling the plaintiff, on a non suit, nine cents. | |
| | Calling the defendant, on a default, nine cents. | |
| | Calling the defendant, on a recognizance, nine cents. | |
| | Every proclamation upon a fine, nine cents. | |

The juror's fees in the supreme court, circuit-courts and sittings.

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| Fr { | Every juror for each action in which he is sworn, twelve and an half cents, if in the city and county of New York; and in any other city or county, twenty five cents. | Jurors. |
| | Every juror coming to, and attending a view, and returning, seventy five cents per day. | |
| | Every struck juror, or juror from a foreign county, coming to and attending at court and returning, seventy five cents per day. | |

Fees to the attorney general.

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| { | For his services on occasions where he may attend on behalf of the people of this State without the State of New York, at the rate of five dollars and fifty cents per day, besides all charges for expenditures and disbursements necessarily incurred by him in or about the prosecution or defence of any action, right or claim in which the people of this State may be interested; and the like sum per day for his services in attending any court of oyer and terminer and gaol delivery, in any county of this State, other than the city and county of New York, at the request of the person administering the government of this State or of a judge of the supreme court. | Attorney-general. |
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Fees to the district attorneys.

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| { | For drawing every precept and every indictment including such as may be prepared by the direction of the grand jury, although afterwards not finally agreed to by them, at the court of oyer and terminer, or gaol delivery and general sessions of the peace, nineteen cents for drawing per folio, and for engrossing, twelve and an half cents per folio. | District attorneys. |
| | For process of subpoena actually made out and issued, twenty five cents for every subpoena for process actually made out and issued to bring in the defendants, twenty five cents on each indictment. | |
| | For arguing the matter, where the defendant shall submit, one dollar and twenty five cents. | |

Gates and toll.

And be it further enacted, That it shall and may be lawful for the said president and directors to cause gates to be erected on the said turnpike road in such places as shall be judged most for the benefit of the said company, although the distance between the said gates shall be greater or less than ten miles: *Provided always* that the rates of toll to be taken at the said gates hereby allowed to be erected, shall be in proportion to the rates of toll established in and by the said act hereby amended, for any distance greater or less than the said ten miles. *Provided* the whole number of gates on both the said lines of road, shall not exceed thirteen.

Eligibility of directors.

And be it further enacted, That not more than one third of the whole number of directors of the company created by the said recited act shall be elected of persons residing out of this State.

CHAP. 192.

AN ACT for the relief of Jonathan Parkhurst David Pixley and Walter Wood.

PASSED the 8th of April, 1801.

Proceedings against Jonathan Parkhurst discontinued.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful for the treasurer of the county of Oneida, and he is hereby required to discontinue all further proceedings against Jonathan Parkhurst for delinquencies in executing and returning his warrant for the collection of taxes in the town of Mexico, in said county, and that all prosecutions which have already been commenced or may hereafter be commenced, by individuals in any of the present towns of Mexico, Redfield, Turin, Champion, Lowville and Watertown in consequence of any collection of taxes heretofore made from them by the said Jonathan Parkhurst by virtue of a warrant for collection of taxes delivered to him on the eighteenth day of December one thousand seven hundred and ninety nine shall be and hereby are also discontinued, upon payment of the costs accrued before the passing of this act.

Additional compensation.

And be it further enacted, That it shall and may be lawful for the said Jonathan Parkhurst as a further compensation for his extra trouble in collecting the taxes in the town of Mexico and for costs which have accrued by prosecutions against him, to receive from the treasurer of this State, the sum of seventy dollars and that the supervisors of the said towns of Mexico, Redfield, Turin, Champion, Lowville and Watertown, shall also receive from the treasurer of this State, each the sum of forty dollars, which said several sums of forty dollars each when so received shall be applied to the use of the poor of the said towns and the treasurer of this State, is hereby directed to pay the said several sums amounting to two hundred and seventy dollars out of the sum to that amount deposited with him by the treasurer of the county of Oneida. *And whereas* the collectors of the towns of Scipio, Romulus and Ovid in the county of Cayuga for the year one thousand seven hundred and ninety nine did not make the affidavit mentioned in the twenty first section of the act for the assessment and collection of taxes within the time limited for that purpose in and by the said section owing to some informality in their respective accounts by reason whereof the comptroller hath refused to audit and allow the account of the treasurer of

the said county so far as respects the taxes of the said several towns, therefore

Be it further enacted, That the comptroller is hereby authorized and required to audit and allow the account of Walter Wood treasurer of the said county of Cayuga in the same manner as if the said several collectors of the said towns of Scipio, Romulus and Ovid had severally made the said affidavit within the time limited therefor as aforesaid.

Collectors
of Scipio,
Romulus
and Ovid.

Whereas David Pixley treasurer of the county of Tioga hath represented to the legislature that the collector of the town of New Town in the said county did deliver to him the said David Pixley the account mentioned in the twenty first section of the act entitled "An act for the assessment and collection of taxes within the time limited by the said section of the said act for that purpose and that he the said David Pixley was unable by reason of sickness to administer to him the said collector the oath mentioned in the said section until after the time limited therefor had expired and that in consequence thereof the comptroller hath refused to audit the account of the said David Pixley as treasurer of the said county; therefore

Be it further enacted, That it shall and may be lawful for the comptroller to audit and allow the account of the said David Pixley as treasurer of the said county of Tioga notwithstanding the oath of the said collector was taken after the time limited for that purpose as aforesaid.

Account
of David
Pixley.

CHAP. 193.

AN ACT to repeal the acts and parts of acts therein mentioned.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the act entitled "An act to authorize the person administering the government of this State for the time being to transmit copies of the laws of this State to the honourable the Congress of the United States and to the executive authority of each of the said United States" and the act entitled "An act concerning appeals of felony," and all the law concerning appeals of felony and mayhem, and all acts and parts of acts heretofore passed by the legislature of this State which come within the purview or operation of any of the acts passed during the present session of the legislature commonly called the revised acts shall be and the same are hereby repealed from and after the first day of October next; *provided however* that such repeal shall not affect any act done, right accrued, suit or prosecution commenced, or penalty, forfeiture, offence or crime incurred or committed previous to the said first day of October next, but every such act and right shall remain as valid, and every such suit or prosecution may lawfully proceed, and every such penalty offence or crime, be demanded, prosecuted, recovered or punished, as the case may be, as if all the acts and parts of acts hereby intended to be repealed had remained in full force. *And provided also,* that all acts and parts of acts which were repealed by any act hereby intended to be repealed and which have not been re-enacted during the present session shall continue to be so repealed, *and provided further* that the said acts passed during the present session of the legislature commonly called the revised acts shall not take effect or be in

Acts
repealed
repealed.

force until the said first day of October next, any thing in the said acts contained to the contrary notwithstanding: *And provided further* that the act for the assessment and collection of taxes," the act for defraying the public and necessary charges of the respective counties of this State," the act to regulate highways," the act to provide against infectious and pestilential diseases" the act for the inspection of pot and pearl ashes" the act to regulate the culling of staves and heading," the act for the inspection of lumber," the act relative to the State prison," and the act to regulate sales at public auction & to prevent stock-jobbing," passed at the present session shall be and continue in full force any thing in this act contained to the contrary notwithstanding.—

CHAP. 194.

AN ACT for publishing the laws of this State.—

PASSED the 8th of April, 1801.

Persons
named to
cause laws
of 1801 to
be printed.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That James Kent and Jacob Radcliff are hereby authorized and appointed to prepare for the press, and to cause to be printed, in as many volumes and under such heads or divisions as they shall think proper all the acts and parts of acts of the legislature of this State now in force and including all those which may be passed during the present session; that in doing this it shall be their duty to comprise, if possible, in one volume all permanent acts of a public nature and affecting the community at large; and also if in their opinion it shall be practicable and expedient such acts of incorporation or of a local nature as are most useful to be generally known; and they shall insert in the said work, and in a separate volume the titles only of all obsolete and private acts, and of all acts of incorporation and of a partial or local nature which shall not be comprehended in the said volume of public acts, *provided however,* that if it shall appear to them most proper or expedient they may insert at length such acts of incorporation and of a partial or local nature as they shall deem most useful to be generally known in the said volume which shall contain the titles of the acts which are private or obsolete; and the constitution of the United States of America and of this State shall be inserted in the first volume.

Index,
marginal
notes, etc.

And be it further enacted, That the said James Kent and Jacob Radcliff shall make an index of the matter contained in the said work, and marginal notes, and shall correct all errors, if any be discovered in the orthography of the laws, and in every respect complete the said work in a manner, which to them shall appear best calculated to render the same the most generally useful; and for this purpose they shall have free access to, and be permitted to examine any of the public records or papers of this State, without fee or reward.

Contract
with
printer.

And be it further enacted, That it shall be lawful for the said James Kent and Jacob Radcliff to agree with any printer, to print the said work in such manner and upon such terms as they may think proper having a reasonable regard to economy therein, and that such printer shall deliver at least six hundred copies of the said work compleatly bound in calf skin to the secretary of this State, to be by him retained, subject to the future order of the legislature.

Appropriation.

And be it further enacted, That the treasurer of this State, on the warrant of the comptroller, shall pay to the said James Kent and Jacob

Radcliff, such sums as it may appear to the comptroller are necessary from time to time, for defraying the expence of preparing the said work for the press, and for paying the compensation herein after allowed to the said James Kent and Jacob Radcliff.

And be it further enacted That the said James Kent and Jacob Radcliff shall severally be, and they are hereby allowed, for their services aforesaid, the sum of eight hundred and fifty dollars. Compensation.

And be it further enacted, That each of the present members of the legislature shall be entitled to receive one sett of the said laws so deposited in the secretary's office, and the said secretary shall deliver the same to them or their order.— Distribution.

CHAP. 195.

AN ACT for the payment of certain officers of government and for other purposes.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the treasurer of this State shall on or before the first day of July next on the warrant of the comptroller pay to Simeon Dewitt surveyor general of this State the sum of one thousand two hundred and fifty dollars for his services in his said office from the first day of July last to the first day of July next, *provided nevertheless* that the said Simeon Dewitt shall account with the comptroller of this State and pay into the treasury all the fees which he may have received or shall receive as surveyor general during the time above mentioned and which have not been yet accounted for and paid. Annual appropriation bill; surveyor-general.

And be it further enacted, That the treasurer shall pay to Loring Andrews printer to this State such sums of money as shall be certified by the comptroller to be due to him for printing the laws and journals of the present session of the legislature and such other printing as has been or may be done by him for the State. State printer.

And be it further enacted, That the treasurer shall pay to David Van Horn late adjutant general of the militia of this State on the warrant of the comptroller such sum of money as may appear to be due him for his service in that station from the twenty third day of January last until the seventh day of April instant to be computed at and after the rate of one thousand five hundred dollars per annum and to Solomon Van Rensselaer the present adjutant general a like compensation per annum to be computed from the day last aforesaid until the first day of July next and to be paid in quarter yearly payments. Adjutant-general.

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to such of the clergy as shall have attended the legislature as chaplains during the present session the sum of two dollars and fifty cents each for every day they shall have so attended which sums shall be certified by the president of the senate or speaker of the assembly.— Chaplain of legislature.

And be it further enacted, That the treasurer shall pay to the messenger and door keeper of the council of revision and council of appointment the like compensation per day as is allowed to the door keeper of the senate and assembly. Messenger and door-keeper.

council of appointment. *And be it further enacted,* That the members of the council of appointment shall for their attendance during the recess of the legislature be entitled to receive the same allowance per day and for travelling as is allowed to the members of the legislature.—

incidental expenses of executive department. *And be it further enacted,* That it shall be lawful for the treasurer on the warrant of the comptroller to pay to the person administering the government of this State for the time being to defray the incidental expenses which may arise in and about the administering the government of this State, such sum or sums of money as he shall require not exceeding the sum of seven hundred and fifty dollars.—

additional allowances to State officers. *And be it further enacted,* That from the first day of July last to the first day of July next there shall be allowed to the several officers of government in addition to the annual salaries now allowed to them and each of them respectively, in and by the act entitled "An act for the support of government the following sums, to wit, to the chancellor the sum of five hundred dollars to the chief justice the like sum; and to each of the other judges of the supreme court the sum of six hundred and twenty five dollars, *provided always* that the allowance to be made to Mr. Justice Benson shall be only for the term he remained in office within the above period, after the rate aforesaid — and for the present session of the legislature in addition to the sums allowed in and by the act entitled "An act for the support of government to the president of the senate and the speaker of the house of assembly the sum of seventy five cents a day for each days attendance in their respective stations, and to each member of the senate and assembly the sum of fifty cents a day for each days travel and attendance in the legislature.—

clerks of legislature. *And be it further enacted,* That the treasurer shall pay to the clerk of the senate and to the clerk of the assembly the sum of two dollars and twenty five cents per day each in addition to the compensation allowed them in and by the act entitled "An act for the support of government.

court of probates. *And be it further enacted,* That it shall be lawful for the treasurer this State, upon the warrant of the comptroller to pay to the judge of the court of probates, annually the sum of two hundred and fifty dollars to commence from the first day of July last.—

presidential electors. *And be it further enacted,* That the treasurer of this State shall on the warrant of the comptroller pay to the persons who served as electors in this State for the election of a president and vice president of the United States of America and who met for that purpose in the month of December last at the city of Hudson the sum of three dollars for every day they shall respectively have been engaged in the discharge of their duties as electors and the further sum of three dollars for every twenty miles of the distance from their respective places of residence to the city of Hudson both for travelling to and returning from the said city, upon the said electors respectively presenting an account specifying the said number of days and miles distance to the comptroller under their respective signatures who is hereby authorized on the production of such accounts to draw his warrants on the treasurer for such sum as each elector may be entitled to.

revisers of the laws. *And be it further enacted,* That the treasurer of this State on the warrant of the comptroller pay to James Kent and Jacob Radcliff out of any monies in the treasury each one thousand dollars for the performance of the services required of them by the "Act making provision for the revision of the laws of this State."

expenses of revision. *And be it further enacted,* That the comptroller is hereby authorized to audit accounts of such clerks as may have been employed by the said

James Kent and Jacob Radcliff in copying and engrossing the revised laws for stationary and for their services in auditing whereof the comptroller shall allow such sum for every folio copied or engrossed by such clerks containing seventy two words as the said James Kent and Jacob Radcliff shall certify to be reasonable and the treasurer is hereby directed in the warrant of the comptroller to pay the sum of money which shall be found due to such clerks out of any monies in the treasury.

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to Michael Brooks, or his order fifty one dollars and thirty one cents, for work done, and materials furnished to the government house, in New York. **Michael Brooks.**

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to Joachim G. Staats the sum of sixteen dollars and twenty three cents for that sum overpaid into the treasury for the State tax for the county of Schoharie. **Joachim G. Staats.**

And be it further enacted, That the treasurer shall pay to on the warrant of the comptroller unto Abijah Gilbert the sum of eighty six dollars and thirty three cents for the sum overpaid into the treasury for the State tax for the county of Westchester. **Abijah Gilbert.**

And be it further enacted, That it shall and may be lawful for the supervisors of the county of Herkimer to raise by tax in the said county the sum of one hundred dollars for the purpose of indemnifying certain persons heretofore acting as commissioners for building a bridge over the Mohawk river near the house of John Frank which said sum of money shall be raised, levied and collected in the same manner as the necessary and contingent charges of the said county are levied and collected, and the treasurer of the said county is hereby required and directed to pay to the said commissioners or to any one of them upon the order of the said board of supervisors the above said sum of one hundred dollars. **Herkimer, tax for bridge.**

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to Simeon DeWitt such sum as shall be due to him for expences in examining the Indian reservations pursuant to concurrent resolutions of the senate and assembly of the twentieth and twenty first days of March 1800 and also such sum as shall be due to him for expences in causing an appraisement to be made of the farm the equity of redemption of which he was directed by law to convey to James Pine.— **Simeon DeWitt.**

And be it further enacted, That the treasurer of this State shall pay to the comptroller on his warrant a sum not exceeding two hundred dollars expended for purchasing his seal of office and the implements for the using the same and also such sum as shall be necessary for defraying the expence of procuring such cases as the comptroller may think requisite for the convenient and safe keeping of the books and papers in his office. **Seal of comptroller.**

And be it further enacted, That the treasurer shall pay upon the warrant of the comptroller, to the State printer such sum as shall be due to him upon the settlement of his accounts for printing performed during the present session of the legislature, for printing in the month of April last fifteen hundred copies of "An act to explain and amend the act entitled "An act for the assessment and collection of taxes, and the clause of the act entitled "An act for the payment of certain officers of government, and for other purposes," printed in pursuance of concurrent resolutions of the senate and assembly.— **Printing.**

Gates and toll.

And be it further enacted, That it shall and may be lawful for the said president and directors to cause gates to be erected on the said turnpike road in such places as shall be judged most for the benefit of the said company, although the distance between the said gates shall be greater or less than ten miles: *Provided always* that the rates of toll to be taken at the said gates hereby allowed to be erected, shall be in proportion to the rates of toll established in and by the said act hereby amended, for any distance greater or less than the said ten miles. *Provided* the whole number of gates on both the said lines of road, shall not exceed thirteen.

Eligibility of directors.

And be it further enacted, That not more than one third of the whole number of directors of the company created by the said recited act shall be elected of persons residing out of this State.

CHAP. 192.

AN ACT for the relief of Jonathan Parkhurst David Pixley and Walter Wood.

PASSED the 8th of April, 1801.

Proceedings against Jonathan Parkhurst discontinued.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That it shall and may be lawful for the treasurer of the county of Oneida, and he is hereby required to discontinue all further proceedings against Jonathan Parkhurst for delinquencies in executing and returning his warrant for the collection of taxes in the town of Mexico, in said county, and that all prosecutions which have already been commenced or may hereafter be commenced, by individuals in any of the present towns of Mexico, Redfield, Turin, Champion, Lowville and Watertown in consequence of any collection of taxes heretofore made from them by the said Jonathan Parkhurst by virtue of a warrant for collection of taxes delivered to him on the eighteenth day of December one thousand seven hundred and ninety nine shall be and hereby are also discontinued, upon payment of the costs accrued before the passing of this act.

Additional compensation.

And be it further enacted, That it shall and may be lawful for the said Jonathan Parkhurst as a further compensation for his extra trouble in collecting the taxes in the town of Mexico and for costs which have accrued by prosecutions against him, to receive from the treasurer of this State, the sum of seventy dollars and that the supervisors of the said towns of Mexico, Redfield, Turin, Champion, Lowville and Watertown, shall also receive from the treasurer of this State, each the sum of forty dollars, which said several sums of forty dollars each when so received shall be applied to the use of the poor of the said towns and the treasurer of this State, is hereby directed to pay the said several sums amounting to two hundred and seventy dollars out of the sum to that amount deposited with him by the treasurer of the county of Oneida. *And whereas* the collectors of the towns of Scipio, Romulus and Ovid in the county of Cayuga for the year one thousand seven hundred and ninety nine did not make the affidavit mentioned in the twenty first section of the act for the assessment and collection of taxes within the time limited for that purpose in and by the said section owing to some informality in their respective accounts by reason whereof the comptroller hath refused to audit and allow the account of the treasurer of

the said county so far as respects the taxes of the said several towns, therefore

Be it further enacted, That the comptroller is hereby authorized and required to audit and allow the account of Walter Wood treasurer of the said county of Cayuga in the same manner as if the said several collectors of the said towns of Scipio, Romulus and Ovid had severally made the said affidavit within the time limited therefor as aforesaid. Collectors of Scipio, Romulus and Ovid.

Whereas David Pixley treasurer of the county of Tioga hath represented to the legislature that the collector of the town of New Town in the said county did deliver to him the said David Pixley the account mentioned in the twenty first section of the act, entitled "An act for the assessment and collection of taxes within the time limited by the said section of the said act for that purpose and that he the said David Pixley was unable by reason of sickness to administer to him the said collector the oath mentioned in the said section until after the time limited therefor had expired and that in consequence thereof the comptroller hath refused to audit the account of the said David Pixley as treasurer of the said county; therefore

Be it further enacted, That it shall and may be lawful for the comptroller to audit and allow the account of the said David Pixley as treasurer of the said county of Tioga notwithstanding the oath of the said collector was taken after the time limited for that purpose as aforesaid. Account of David Pixley.

CHAP. 193.

AN ACT to repeal the acts and parts of acts therein mentioned.

PASSED the 8th of April, 1861.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the act entitled "An act to authorize the person administering the government of this State for the time being to transmit copies of the laws of this State to the honourable the Congress of the United States and to the executive authority of each of the said United States" and the act entitled "An act concerning appeals of felony," and all the law concerning appeals of felony and mayhem, and all acts and parts of acts heretofore passed by the legislature of this State which come within the purview or operation of any of the acts passed during the present session of the legislature commonly called the revised acts shall be and the same are hereby repealed from and after the first day of October next; *provided however* that such repeal shall not affect any act done, right accrued, suit or prosecution commenced, or penalty, forfeiture, offence or crime incurred or committed previous to the said first day of October next, but every such act and right shall remain as valid, and every such suit or prosecution may lawfully proceed, and every such penalty offence or crime, be demanded, prosecuted, recovered or punished, as the case may be, as if all the acts and parts of acts hereby intended to be repealed had remained in full force. *And provided also*, that all acts and parts of acts which were repealed by any act hereby intended to be repealed and which have not been re-enacted during the present session shall continue to be so repealed, *and provided further* that the said acts passed during the present session of the legislature commonly called the revised acts shall not take effect or be in Acts recited repealed.

force until the said first day of October next, any thing in the said acts contained to the contrary notwithstanding: *And provided further* that the act for the assessment and collection of taxes," the act for defraying the public and necessary charges of the respective counties of this State," the act to regulate highways," the act to provide against infectious and pestilential diseases" the act for the inspection of pot and pearl ashes" the act to regulate the culling of staves and heading," the act for the inspection of lumber," the act relative to the State prison," and the act to regulate sales at public auction & to prevent stock-jobbing," passed at the present session shall be and continue in full force any thing in this act contained to the contrary notwithstanding.—

CHAP. 194.

AN ACT for publishing the laws of this State.—

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That James Kent and Jacob Radcliff are hereby authorized and appointed to prepare for the press, and to cause to be printed, in as many volumes and under such heads or divisions as they shall think proper all the acts and parts of acts of the legislature of this State now in force and including all those which may be passed during the present session; that in doing this it shall be their duty to comprise, if possible, in one volume all permanent acts of a public nature and affecting the community at large; and also if in their opinion it shall be practicable and expedient such acts of incorporation or of a local nature as are most useful to be generally known; and they shall insert in the said work, and in a separate volume the titles only of all obsolete and private acts, and of all acts of incorporation and of a partial or local nature which shall not be comprehended in the said volume of public acts, *provided however*, that if it shall appear to them most proper or expedient they may insert at length such acts of incorporation and of a partial or local nature as they shall deem most useful to be generally known in the said volume which shall contain the titles of the acts which are private or obsolete; and the constitution of the United States of America and of this State shall be inserted in the first volume.

And be it further enacted, That the said James Kent and Jacob Radcliff shall make an index of the matter contained in the said work, and marginal notes, and shall correct all errors, if any be discovered in the orthography of the laws, and in every respect complete the said work in a manner, which to them shall appear best calculated to render the same the most generally useful; and for this purpose they shall have free access to, and be permitted to examine any of the public records or papers of this State, without fee or reward.

And be it further enacted, That it shall be lawful for the said James Kent and Jacob Radcliff to agree with any printer, to print the said work in such manner and upon such terms as they may think proper having a reasonable regard to economy therein, and that such printer shall deliver at least six hundred copies of the said work compleatly bound in calf skin to the secretary of this State, to be by him retained, subject to the future order of the legislature.

And be it further enacted, That the treasurer of this State, on the warrant of the comptroller, shall pay to the said James Kent and Jacob

Persons
named to
cause laws
of 1801 to
be printed.

Index,
marginal
notes, etc.

Contract
with
printer.

Appropriation.

Radcliff, such sums as it may appear to the comptroller are necessary from time to time, for defraying the expence of preparing the said work for the press, and for paying the compensation herein after allowed to the said James Kent and Jacob Radcliff.

And be it further enacted That the said James Kent and Jacob Radcliff shall severally be, and they are hereby allowed, for their services aforesaid, the sum of eight hundred and fifty dollars. Compensation.

And be it further enacted, That each of the present members of the legislature shall be entitled to receive one sett of the said laws so deposited in the secretary's office, and the said secretary shall deliver the same to them or their order.— Distribution.

CHAP. 195.

AN ACT for the payment of certain officers of government and for other purposes.

PASSED the 8th of April, 1801.

Be it enacted by the People of the State of New York, represented in Senate and Assembly, That the treasurer of this State shall on or before the first day of July next on the warrant of the comptroller pay to Simeon Dewitt surveyor general of this State the sum of one thousand two hundred and fifty dollars for his services in his said office from the first day of July last to the first day of July next, *provided nevertheless* that the said Simeon Dewitt shall account with the comptroller of this State and pay into the treasury all the fees which he may have received or shall receive as surveyor general during the time above mentioned and which have not been yet accounted for and paid. Annual appropriation bill; surveyor-general.

And be it further enacted, That the treasurer shall pay to Loring Andrews printer to this State such sums of money as shall be certified by the comptroller to be due to him for printing the laws and journals of the present session of the legislature and such other printing as has been or may be done by him for the State. State printer

And be it further enacted, That the treasurer shall pay to David Van Horn late adjutant general of the militia of this State on the warrant of the comptroller such sum of money as may appear to be due him for his service in that station from the twenty third day of January last until the seventh day of April instant to be computed at and after the rate of one thousand five hundred dollars per annum and to Solomon Van Rensselaer the present adjutant general a like compensation per annum to be computed from the day last aforesaid until the first day of July next and to be paid in quarter yearly payments. Adjutant-general.

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to such of the clergy as shall have attended the legislature as chaplains during the present session the sum of two dollars and fifty cents each for every day they shall have so attended which sums shall be certified by the president of the senate or speaker of the assembly.— Chaplain of legislature

And be it further enacted, That the treasurer shall pay to the messenger and door keeper of the council of revision and council of appointment the like compensation per day as is allowed to the door keeper of the senate and assembly. Messenger and door-keeper.

council of appointment. *And be it further enacted,* That the members of the council of appointment shall for their attendance during the recess of the legislature be entitled to receive the same allowance per day and for travelling as is allowed to the members of the legislature.—

incidental expenses of executive department. *And be it further enacted,* That it shall be lawful for the treasurer on the warrant of the comptroller to pay to the person administering the government of this State for the time being to defray the incidental expenses which may arise in and about the administering the government of this State, such sum or sums of money as he shall require not exceeding the sum of seven hundred and fifty dollars.—

additional allowances to State officers. *And be it further enacted,* That from the first day of July last to the first day of July next there shall be allowed to the several officers of government in addition to the annual salaries now allowed to them and each of them respectively, in and by the act entitled "An act for the support of government the following sums, to wit, to the chancellor the sum of five hundred dollars to the chief justice the like sum; and to each of the other judges of the supreme court the sum of six hundred and twenty five dollars, *provided always* that the allowance to be made to Mr. Justice Benson shall be only for the term he remained in office within the above period, after the rate aforesaid — and for the present session of the legislature in addition to the sums allowed in and by the act entitled "An act for the support of government to the president of the senate and the speaker of the house of assembly the sum of seventy five cents a day for each days attendance in their respective stations, and to each member of the senate and assembly the sum of fifty cents a day for each days travel and attendance in the legislature.—

clerks of legislature. *And be it further enacted,* That the treasurer shall pay to the clerk of the senate and to the clerk of the assembly the sum of two dollars and twenty five cents per day each in addition to the compensation allowed them in and by the act entitled "An act for the support of government.

court of probates. *And be it further enacted,* That it shall be lawful for the treasurer this State, upon the warrant of the comptroller to pay to the judge of the court of probates, annually the sum of two hundred and fifty dollars to commence from the first day of July last.—

residential electors. *And be it further enacted,* That the treasurer of this State shall on the warrant of the comptroller pay to the persons who served as electors in this State for the election of a president and vice president of the United States of America and who met for that purpose in the month of December last at the city of Hudson the sum of three dollars for every day they shall respectively have been engaged in the discharge of their duties as electors and the further sum of three dollars for every twenty miles of the distance from their respective places of residence to the city of Hudson both for travelling to and returning from the said city, upon the said electors respectively presenting an account specifying the said number of days and miles distance to the comptroller under their respective signatures who is hereby authorized on the production of such accounts to draw his warrants on the treasurer for such sum as each elector may be entitled to.

revisers of the laws. *And be it further enacted,* That the treasurer of this State on the warrant of the comptroller pay to James Kent and Jacob Radcliff out of any monies in the treasury each one thousand dollars for the performance of the services required of them by the "Act making provision for the revision of the laws of this State."

expenses of revision. *And be it further enacted,* That the comptroller is hereby authorized to audit accounts of such clerks as may have been employed by the said

James Kent and Jacob Radcliff in copying and engrossing the revised laws for stationary and for their services in auditing whereof the comptroller shall allow such sum for every folio copied or engrossed by such clerks containing seventy two words as the said James Kent and Jacob Radcliff shall certify to be reasonable and the treasurer is hereby directed in the warrant of the comptroller to pay the sum of money which shall be found due to such clerks out of any monies in the treasury.

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to Michael Brooks, or his order fifty one dollars and thirty one cents, for work done, and materials furnished to the government house, in New York. **Michael Brooks.**

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to Joachim G. Staats the sum of sixteen dollars and twenty three cents for that sum overpaid into the treasury for the State tax for the county of Schoharie. **Joachim G. Staats.**

And be it further enacted, That the treasurer shall pay to on the warrant of the comptroller unto Abijah Gilbert the sum of eighty six dollars and thirty three cents for the sum overpaid into the treasury for the State tax for the county of Westchester. **Abijah Gilbert.**

And be it further enacted, That it shall and may be lawful for the supervisors of the county of Herkemer to raise by tax in the said county the sum of one hundred dollars for the purpose of indemnifying certain persons heretofore acting as commissioners for building a bridge over the Mohawk river near the house of John Frank which said sum of money shall be raised, levied and collected in the same manner as the necessary and contingent charges of the said county are levied and collected, and the treasurer of the said county is hereby required and directed to pay to the said commissioners or to any one of them upon the order of the said board of supervisors the above said sum of one hundred dollars. **Herkimer, tax for bridge.**

And be it further enacted, That the treasurer shall pay on the warrant of the comptroller to Simeon DeWitt such sum as shall be due to him for expences in examining the Indian reservations pursuant to concurrent resolutions of the senate and assembly of the twentieth and twenty first days of March 1800 and also such sum as shall be due to him for expences in causing an appraisement to be made of the farm the equity of redemption of which he was directed by law to convey to James Pine.— **Simeon DeWitt.**

And be it further enacted, That the treasurer of this State shall pay to the comptroller on his warrant a sum not exceeding two hundred dollars expended for purchasing his seal of office and the implements for the using the same and also such sum as shall be necessary for defraying the expence of procuring such cases as the comptroller may think requisite for the convenient and safe keeping of the books and papers in his office. **Seal of comptroller.**

And be it further enacted, That the treasurer shall pay upon the warrant of the comptroller, to the State printer such sum as shall be due to him upon the settlement of his accounts for printing performed during the present session of the legislature, for printing in the month of April last fifteen hundred copies of "An act to explain and amend the act entitled "An act for the assessment and collection of taxes, and the clause of the act entitled "An act for the payment of certain officers of government, and for other purposes," printed in pursuance of concurrent resolutions of the senate and assembly.— **Printing.**

Mileage of legislature. *And be it further enacted,* That the treasurer shall pay to each member of the senate and assembly, and their attendant officers, for traveling at the rate of twenty miles per day, any law to the contrary notwithstanding.

Officers of legislature. *And be it further enacted,* That there be paid to the sergeants at arms and to the door-keepers of the senate and assembly, and to each of them, in addition to the allowance now made by law, the sum of fifty cents for each and every day, they shall have respectively attended to their duties during the present session.

Secretary of State. *And be it further enacted,* That the treasurer shall pay to the private secretary of the person administering the government of this State upon the warrant of the comptroller the sum of one hundred and twenty six dollars in addition to the sum allowed by the act entitled "An act for the support of government.

Pavement of streets. *And be it further enacted,* That the secretary of this State is hereby authorized to cause such part of the streets opposite to the public building occupied by him to be paved as shall be required to be done by any law or ordinance of the mayor, aldermen and commonalty of the city of Albany and that the treasurer of this State on the warrant of the comptroller pay the expence thereof out of any monies in the treasury.—

James Van Ingen and Abraham B. Bancker. *And be it further enacted,* That the treasurer of this State on the warrant of the comptroller pay to James Van Ingen for making indexes to the journals of the house of assembly for the years one thousand seven hundred and ninety nine and one thousand eight hundred the sum of forty five dollars and to Abraham B. Bancker for making indexes to the journals of the senate for the same years the sum of thirty dollars and also to the said James Van Ingen the further sum of sixty dollars paid by him for printing the above mentioned indexes agreeably to the accounts thereof audited by the comptroller and also to the said James Van Ingen and Abraham B. Bancker respectively such further sum as shall be allowed by the comptroller for making and printing indexes to the journals of the present session.

Tax of one mill levied. *And be it further enacted,* That a tax of one mill upon each dollar of the valuation of the real and personal estates within this State shall be raised levied and collected in the present year in the manner directed by any act or acts of the legislature of this State.

Borrowing of moneys. *And be it further enacted,* That whenever there shall be any monies in the treasury exceeding the sums necessary for the support of government and the specific appropriations made or to be made by the legislature it shall be the duty of the comptroller to apply such surplus monies towards the payment of the sums borrowed from the banks of New York and Albany.

School moneys. *And be it further enacted,* That no payments shall hereafter be made to any of the county treasurers under the "act for the encouragement of schools," passed the 9th day of April 1795 until legislative provision shall be made on the subject.

Comptroller, extra clerk. *And be it further enacted,* That it may be lawful for the treasurer on the warrant of the comptroller to pay to the secretary out of the monies received by him for business done in his office, and accounted for to the comptroller from the 1st of July 1800 to the 1st July 1801, the sum of three hundred dollars for a compensation to an extra clerk necessarily employed in said office for the said period —

John McLean. *And be it further enacted,* That it shall be lawful for the comptroller to examine and audit the account of John McLean for expences and services by him performed under the directions of Ebenezer Stevens

relative to the arsenal, military stores and artillery in the city of New York, and to draw his warrant upon the treasurer for the amount thereof, who is hereby directed to pay the same out of money not otherwise appropriated.—

And be it further enacted, That the treasurer by warrant from the comptroller pay unto John Millar Junior, and Platt Kintzing of the city of Philadelphia owners and consignees of the brig Ocean, which was wrecked on the south side of Long Island the 17th day of January 1800 or their order the sum of two hundred dollars and forty cents, which was paid into the treasury by John Jarmain auctioneer in the county of Suffolk, as State duties received on the sale at auction of goods drove on shore from the said wrecked brig. John Millar, Jr., and Platt Kintzing.

And be it further enacted, That the said treasurer shall on the warrant of the comptroller pay to Uri Tracy, sheriff of the county of Chenango, thirty two dollars and thirty seven cents, as a compensation for services performed in consequence of a warrant issued to him by his excellency the governor for removing Hanyost Schuyler from the Indian lands upon which he had intruded. Uri Tracy.

And be it further enacted, That it shall be lawful for the regents of the university to grant and convey to the trustees of Union and Columbia Colleges and their successors all the lands which are now vested in the regents situate at Crown Point, Ticonderoga and Lake George in such proportions as the regents shall deem just and reasonable for the use of the said colleges respectively. Union and Columbia Colleges.

And be it further enacted, That the treasurer shall pay on the warrant the comptroller, the sum of five dollars and fifty four cents to James Elliot for the amount of his account for expences incurred by order of his excellency the governor, for the council of appointment and the council of revision during the last session of the legislature.— James Elliot.

And be it further enacted, That the treasurer shall on the warrant of the comptroller pay to Nicoll Floyd the sum of thirty two dollars and fifty cents, it being a balance due him for travelling charges as certified by the comptroller of this State. Nicoll Floyd.

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